

EXHIBIT 18

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION**

DWIGHT RUSSELL, et al.)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:19-cv-00226
)	(Class Action)
HARRIS COUNTY, TEXAS, et al.,)	The Honorable Lee H. Rosenthal
)	U.S. District Judge
Defendants.)	
)	

DECLARATION OF T. BRENT MAYR

I, T. BRENT MAYR, hereby declare and state:

1. I am submitting this declaration in support of Plaintiffs' motion for summary judgment. The facts set forth in this declaration are based on my personal knowledge, unless otherwise indicated, and, if called as a witness, I could and would testify thereto. I reside in The Woodlands, Texas.

2. I graduated from South Texas College of Law in 2002. I was a briefing attorney to Judge Barbara Hervey on the Texas Court of Criminal Appeals in 2003 and from 2004 to 2010 I was an Assistant District Attorney for the Harris County District Attorney's Office. In the District Attorney's office, I served as head of the Vehicular Crimes Section responsible for all intoxication related cases.

3. In 2010, I left the District Attorney's Office and started my own criminal defense practice. Currently, I am a criminal defense lawyer and managing shareholder of Mayr Law, P.C., a criminal defense firm based in Houston with offices in The Woodlands and Victoria. I am board certified in criminal law by the Texas Board of Legal Specialization and have been since

2010. I am also currently on the Board of Directors for the Harris County Criminal Lawyers Association and co-chair of the Ethics Committee for the Texas Criminal Defense Lawyers Association. I am also a member of this Court's CJA Panel and have been since 2010.

4. Beginning in the fall of 2019, I began observing an alarming practice in Judge Ramona Franklin's court that has persisted since then and has spread to other courtrooms.

I. The Process from Arrest to First Appearance for People Who Are Released at Magistration

5. Generally, within 48 hours of being charged, a person who is arrested will appear before a magistrate judge (also called a Criminal Law Hearing Officer) who makes an initial bail determination.

6. If the person arrested can afford to post the bail amount, or if unsecured (personal) bond is set, he or she is released from the Sheriff's custody.

7. Typically, the person is ordered to appear before a District Court judge for his or her first court appearance the business day after magistration. But because it can take well over 12 hours to be released from the jail after an order of release is issued, people who are released often end up having to appear in the District Court just a few hours after they get out of jail.

8. As a result of the short time frame between the defendant's release from custody and the first appearance before the District Court, many defendants appear at this court setting without a lawyer.

II. Ramona Franklin Revokes Bonds Without Notice, a Hearing, or Providing Opportunity to Retain Counsel

9. Judge Ramona Franklin routinely disagrees with the Hearing Officers' bail decisions in cases assigned to her courtroom, believing that the bonds they set are too low or "insufficient."

10. But instead of waiting to see whether the District Attorney's office requests a bond modification or seeks revocation, Judge Franklin instead revokes bond *sua sponte*.

11. In such cases, Judge Franklin does not provide the defendant with notice that bail will be considered—and the person's freedom will be at stake—at the first appearance. Thus, people show up, as required, at first appearance with no advance warning that they are likely to be taken back into custody. Many have just scraped together money to pay a non-refundable fee to a commercial bonding company to secure their release—money that they may have chosen not to pay if they knew the bond could be revoked, and the payment wasted, just a day or two later.

12. Before revoking bond, Judge Franklin does not conduct an adversarial, evidentiary, on-the-record hearing. Instead, the hearings are informal, off-the-record, with no application of the rules of evidence (as it required under the Texas Rules of Evidence for any hearing to revoke a bond), and do not result in any documented findings or statement of reasons, let alone findings that meet a heightened evidentiary standard.

13. Whenever Judge Franklin revokes and increases a defendant's bond, the defendant is returned to custody and taken to jail if they cannot afford the new higher bond.

14. I first became aware of Judge Franklin's bond revocation practice in November 2019, when a client of mine, Joseph Gomez, was taken into custody after having his original bonds revoked at his first appearance.

15. In his case, the hearing officer set bail in his two cases in an amount totaling \$40,000. Mr. Gomez was released from custody the following morning, November 15, 2019, after his parents paid a non-refundable fee to a private bonding company to post surety bonds in that amount. As instructed by the bond papers, Mr. Gomez went directly from the jail to his arraignment before Judge Ramona Franklin.

16. At arraignment, Judge Franklin decided *sua sponte* to address the adequacy of Gomez's bail. There is no record of the November 15th hearing.

17. As a matter of routine practice, Judge Franklin and the other District Judges do not conduct first appearances on the record, including bond discussions and revocation proceedings.

18. Without any motion by the district attorney, without notice to Mr. Gomez, without affording Mr. Gomez the opportunity to retain counsel of his own choosing, without a record taken by a court reporter, without considering ability to pay, without any findings or explanation, and without regard for the Rules of Evidence, Judge Franklin arbitrarily found the bond amounts to be insufficient, revoked the bonds, and raised the bail amounts on his two cases from \$40,000 to a total of \$150,000, an amount Mr. Gomez could not afford.

19. Judge Franklin stated at a later proceeding that she appointed counsel prior to revoking Mr. Gomez's bonds, but this nominal appointment of counsel provided no meaningful protection for Mr. Gomez's constitutional rights. In Mr. Gomez's case, I still have no idea who, if anyone, Judge Franklin appointed and whether that person provided any argument to try to stop Judge Franklin from increasing Mr. Gomez's bonds. I do know that this "mystery attorney" had no meaningful discussions with Mr. Gomez. Furthermore, Judge Franklin provided no notice and little opportunity for evidentiary or legal argument, so it is unlikely that the nominal appointment of counsel provided any protection to Mr. Gomez prior to having his bonds drastically increased.

20. Because Mr. Gomez's family had spent a substantial amount of their savings to pay a nonrefundable fee to a bonding company to secure Mr. Gomez's release the day before this "hearing," they could not afford to have new bonds posted in the higher amount.

21. After having complied with all of his bond conditions after his release—specifically the requirement to appear in court—Mr. Gomez was taken back into custody without any notice, evidence, or justification.

22. I was formally retained by Mr. Gomez later that day. When Mr. Gomez was finally released, he had spent almost 9 months in jail.

23. He was released only because his family was able to save enough money to pay another non-refundable fee to a commercial bonding company.¹

24. During my representation of Mr. Gomez, I realized that his case was not an isolated event. Rather, *sua sponte* bond revocations are routine in Judge Franklin's courtroom.

25. In October 2020, I submitted an open records request for a list of all cases in which Judge Franklin revoked a defendant's bond. In January 2021, the District Clerk sent me a list of all such cases from 2020. According to that document, Judge Franklin revoked bond in 322 cases in 2020 alone. *See* Ex. A (Email from Clerk attaching Spreadsheet). While I cannot confirm how many of these cases involved *sua sponte* revocations with no procedural safeguards, like Mr. Gomez's case, I observed her court proceedings on multiple occasions across several months and observed the same *sua sponte* revocations without due process or following the rules of evidence in dozens of cases. Many times these revocations occurred with the defendants having *any* counsel to stand with them and represent them.

26. Other members of the defense bar have likewise witnessed their clients' rights violated by Judge Franklin in the same manner and shared their observations with me.

¹ Mr. Gomez's case was the subject of a habeas petition and appeals to the Court of Appeals and the Court of Criminal Appeals. The Court of Appeals recently held that it could not address the constitutional issues Mr. Gomez raised in his habeas petition but did not condone Judge Franklin's practices. *Ex parte Gomez*, Nos. 01-20-00004, 01-20-00005, 2022 WL 2720459, at *5–6 (Tex. App. July 14, 2022). Mr. Gomez ultimately spent 347 days in jail because of Judge Franklin's practices.

27. In fact, in August 2020, Mark Thiessen, on behalf of the Harris County Criminal Lawyers Association, and Grant Scheiner, on behalf of the Texas Criminal Lawyers Defense Association, filed a complaint against Judge Franklin with the State Commission on Judicial Conduct for the same conduct at issue in Mr. Gomez's case. Ex. B (Complaint). The complaint was dismissed on August 22, 2022.

III. Other Judges Similarly Fail to Provide Adequate Hearings When Considering Bail

28. Unfortunately, this practice is not limited to Judge Franklin. Based on my observations in other courtrooms and communications with other defense attorneys, several other Judges revoke and unconstitutionally raise bond in a similar manner as Judge Franklin.

29. The unlawful bail practices in the District Courts extend beyond bond revocations.

30. In one case before Judge Nikita Harmon in August 2021, I represented an individual accused of criminally negligent homicide. Shortly after the District Attorney's Office issued an indictment in the case, the prosecutor and I agreed his bond be set at a \$35,000 personal bond.

31. When we asked Judge Harmon to approve the bond that the prosecutor agreed was adequate, she stated that, as a categorical matter, she will not issue unsecured bonds in "aggravated" cases, meaning cases falling under article 42A.054 of the Texas Code of Criminal Procedure, and refused to issue a personal bond to my client, despite his lengthy ties to the community, low risk of reoffending, and the agreement of the prosecutor.

IV. There Is No Accountability for These Practices

32. In practice, these unlawful bail decisions are exceptionally difficult to challenge.

33. For starters, there is seldom any written record of the revocation or other bail decisions in District Court. The lack of a record shields these proceedings and decisions from scrutiny and makes them very difficult to confront.

34. Although judges in Harris County are supposed to maintain a record of hearings as a matter of course, in practice, many judges do not do so unless a defendant or their attorney specifically requests an on-the-record hearing. But more often than not, an unrepresented defendant will not know to request a record. And attorneys, for their part, are discouraged from asking to go on the record. For example, Judge Franklin will often force an attorney who requests a record to wait until the end of the day for his or her case to be heard as a way of forcing them into agreeing to off-the-record hearings.

35. Because defense counsel are busy with many cases and must appear in multiple courtrooms on the same day, almost all attorneys choose to proceed with off-the-record bail discussions rather than endure the delay, which could cause them to lose clients or money, or to be late to another judge's courtroom. This custom of off-the-record proceedings allows rampant constitutional violations such as those detailed above to go unrecorded and unchallenged.

36. Defendants who do choose to challenge a judge's bail decision typically do so through informal bail hearings before the same district court judge who revoked their bail. These "hearings" are typically held off the record, without reference to the rules of evidence, without the opportunity to call witnesses, and are not subject to any specific standard of proof.

37. A defendant may file a more formal challenge to bail by having their attorney file a habeas petition. However, it typically takes weeks and sometimes over a month to get an on-the-record hearing on a habeas petition, and that hearing still takes place before the same judge.

38. Faced with this procedural morass, many detained defendants will simply plead guilty or wait for trial.

39. The human costs of these arbitrary bail practices are alarming. People who are presumed innocent must wait in jail. These people are taken from their families, community, employment, and lose their independence. Families who have already posted bail then must find even more money if they want to be with their loved one as the criminal case proceeds.

40. Fighting the various unconstitutional bail practices just described—including judges' refusal to put proceedings on the record, their arbitrary bail revocations, and their categorical denials of personal bonds—has enacted a toll on the defense bar and our clients.

41. Some members of the private defense bar will even refuse to take cases in certain judges' courts. Those who do are faced with procedural hurdles and violations of law that result in arbitrary and illegal restraints on the liberty and livelihoods of our clients.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 7th day of September, 2022 at Houston, Texas.

A handwritten signature in black ink, appearing to read 'T. Brent Mayr', written over a horizontal line.

T. Brent Mayr

Exhibit A



Travis Fife <travis@texascivilrightsproject.org>

FW: Harris County District Clerk Open Record Request

3 messages

Brent Mayr <bmayr@mayr-law.com>

To: Travis Fife <travis@texascivilrightsproject.org>, Ashley Fernandez Dorsaneo <ashley@texascivilrightsproject.org>

Brent Mayr

Managing Shareholder

Attorney and Counselor at Law



MAYR LAW P.C.

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The Woodlands Office: 1095 Evergreen Circle, Suite 200, The Woodlands, TX 77380

Victoria Office: One O'Connor Plaza, 101 W. Goodwin, Suite 1107, Victoria, TX 77901



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From: Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com> **On Behalf Of** Records, Open (DCO)

Sent: Monday, January 11, 2021 10:50 AM

To: Brent Mayr <bmayr@mayr-law.com>; Records, Open (DCO) <openrecords@hcdistrictclerk.com>

Subject: RE: Harris County District Clerk Open Record Request

Good morning Mr. Mayr,

Our analyst sends her apologies regarding the errors in the previous dataset.

Please review the new dataset and let me know if you have any questions or issues.

Thank you,

Michelle Lopez, Executive Assistant to

Chief Deputies, Wes McCoy and Judith Snively, JD

Marilyn Burgess, Harris County District Clerk

201 Caroline, Suite 420

Houston, Texas 77002

Cell: 713-497-9008

From: Brent Mayr <bmayr@mayr-law.com>

Sent: Wednesday, December 30, 2020 10:39 AM

To: Records, Open (DCO) <openrecords@hcdistrictclerk.com>

Subject: RE: Harris County District Clerk Open Record Request

This data does not appear to be complete.

Just from one week in August 2020, I see the following cases that had a “Court Directive: Remand Defendant to Custody” issued but are not included on this list:

1685292	Vargas, Armando	W/M	Intox Manslaughter	N	\$30,000 (on filing)	No	Y-Surety (Financial Casualty)	8/10,
1685299	Bennett, Kiara	B/F	Assault Peace Officer	Y(Flores)	\$10,000.00	Yes	Yes	8/10,
1685356	Smith, Brian	W/M	Aslt Fam Member Choking	Y(Porter)	\$15,000.00	Yes	Yes	8/10,
1685375	Martinez, Tomas Larry	W/M	DWI3d	N	\$25,000 (on filing)	No	Y- Surety (Allegheny Casualty)	8/10,
1685502	Garza, Francisco Sanmiguel	W/M	Aslt Fam Member Choking	Y(McCollum)	\$5,000.00	No	Y- Surety (Allegheny Casualty)	8/11,

There are more than just these that are missing from this list. Can you please have the analysts review this and see if they can provide a more accurate list?

I appreciate your attention to the matter.

BM

From: Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com> **On Behalf Of** Records, Open (DCO)
Sent: Wednesday, December 30, 2020 7:32 AM
To: Brent Mayr <bmayr@mayr-law.com>; Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

Good morning Mr. Mayr,

Your data is attached to this email.

Please let me know if you have any questions.

Thank you,

Michelle Lopez, Executive Assistant to
 Chief Deputies, Wes McCoy and Judith Snively, JD
 Marilyn Burgess, Harris County District Clerk
 201 Caroline, Suite 420
 Houston, Texas 77002
 Cell: 713-497-9008

From: Brent Mayr <bmayr@mayr-law.com>
Sent: Tuesday, December 29, 2020 11:13 AM
To: Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

Payment has been submitted with no problems. Thanks.

BM

From: Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com> **On Behalf Of** Records, Open (DCO)
Sent: Tuesday, December 29, 2020 9:55 AM
To: Brent Mayr <bmayr@mayr-law.com>; Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

Great! Please follow the online payment instructions attached to this email.

The transaction number you will need is: 213796874

Please let me know if you run into any issues when paying online.

Thank you,

Michelle Lopez, Executive Assistant to
Chief Deputies, Wes McCoy and Judith Snively, JD
Marilyn Burgess, Harris County District Clerk
201 Caroline, Suite 420
Houston, Texas 77002
Cell: 713-497-9008

From: Brent Mayr <bmayr@mayr-law.com>
Sent: Monday, December 28, 2020 10:08 PM
To: Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: Re: Harris County District Clerk Open Record Request

I will accept. Thank you.

Brent Mayr
Managing Shareholder
Attorney and Counselor at Law

Board Certified – Criminal Law
Texas Board of Legal Specialization

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From: Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com> on behalf of Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Sent: Sunday, December 27, 2020 5:35:47 PM

To: Records, Open (DCO) <openrecords@hcdistrictclerk.com>; Brent Mayr <bmayr@mayr-law.com>
Subject: RE: Harris County District Clerk Open Record Request

Good evening,

I am attaching a cost estimate for your request.

Should you accept, I will proceed with online payment instructions in my next email.

Thank you,

Michelle Lopez, Executive Assistant to
Chief Deputies, Wes McCoy and Judith Snively, JD
Marilyn Burgess, Harris County District Clerk
201 Caroline, Suite 420
Houston, Texas 77002
Cell: 713-497-9008

From: Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com> **On Behalf Of** Records, Open (DCO)
Sent: Monday, December 7, 2020 1:07 PM
To: 'Brent Mayr' <bmayr@mayr-law.com>; Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

Good afternoon,

I have just sent in a request for an update to our analysts.

I will be in touch once I receive word.

Thank you for your continued patience.

Michelle Lopez, Executive Assistant to
Chief Deputies, Wes McCoy and Judith Snively, JD
Marilyn Burgess, Harris County District Clerk
201 Caroline, Suite 420
Houston, Texas 77002
Cell: 713-497-9008

From: Brent Mayr <bmayr@mayr-law.com>
Sent: Monday, December 7, 2020 1:03 PM
To: Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

I'm checking back in on the status of this request.

BM

From: Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com> **On Behalf Of** Records, Open (DCO)
Sent: Wednesday, November 18, 2020 1:11 PM
To: Brent Mayr <bmayr@mayr-law.com>; Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

Good afternoon,

I have sent in for an update to this request and hope to hear back shortly.

Once I am updated, I will be in touch.

Thank you for your patience,

Michelle Lopez, Executive Assistant to
Chief Deputies, Wes McCoy and Judith Snively, JD
Marilyn Burgess, Harris County District Clerk
201 Caroline, Suite 420
Houston, Texas 77002
Cell: 713-497-9008

From: Brent Mayr <bmayr@mayr-law.com>
Sent: Wednesday, November 18, 2020 1:07 PM
To: Records, Open (DCO) <openrecords@hcdistrictclerk.com>; Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

I am following up on this open records request.

Back on October 27, I requested "a list of all cases pending before the 338th Judicial District Court where there has been a Court Directive: Remand Defendant to Custody where the bond was your office since January 1, 2020 to present date."

Could you please provide me with an update on the status of this request? I appreciate your attention to the matter.

Brent Mayr

From: Lopez, Michelle (DCO) <michelle.lopez@hcdistrictclerk.com> **On Behalf Of** Records, Open (DCO)
Sent: Tuesday, October 27, 2020 1:08 PM
To: Brent Mayr <bmayr@mayr-law.com>; Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: RE: Harris County District Clerk Open Record Request

Good afternoon,


Your request has been received.

Thank you,

Michelle Lopez, Executive Assistant to
Chief Deputies, Wes McCoy and Judith Snively, JD
Marilyn Burgess, Harris County District Clerk
201 Caroline, Suite 420
Houston, Texas 77002
Cell: 713-497-9008

From: bmayr@mayr-law.com <bmayr@mayr-law.com>
Sent: Tuesday, October 27, 2020 12:58 PM
To: Records, Open (DCO) <openrecords@hcdistrictclerk.com>
Subject: Harris County District Clerk Open Record Request

OPEN RECORD REQUEST FROM: Name : Thomas B Mayr Address : 5300 MEMORIAL DR, SUITE 750 City : Houston State / Zip : TX 77007 Phone : 713808961 requesting access to, and inspection of the following cases (causes): Please provide a list of all cases pending before the 338th Judicial District Court where there has been Custody where the bond was revoked by the Court entered and filed by your office since January 1, 2020 to present date.

 DATA - Mayr2.xlsx
33K

Brent Mayr <bmayr@mayr-law.com>
To: Travis Fife <travis@texascivilrightsproject.org>, Ashley Fernandez Dorsaneo <ashley@texascivilrightsproject.org>

Tue, Jun 7, 2022 at 11:11 AM

Case Number	Charging Instrument	Court	Case Filing Date	Def Name	Def SPN	Date of Bond Revocation	yh_cay
165834801010	COM	338	20191226	LUCIO, ANGEL	3037828	20200106	BOND REV
165809601010	FID	338	20191223	MYRES, CHRISTOPHER LEE	2169148	20200106	BOND REV
165832801010	COM	338	20191226	BURRIS, RODDRICK	2697352	20200106	BOND REV
165813201010	FID	338	20191224	MATHIS, BYRON	2498964	20200106	BOND REV
165828301010	COM	338	20191226	NAVARRO, VALERIANO ZELYAYA	1920585	20200106	BOND REV
165849501010	FID	338	20191228	GRIGSBY, COURTNEY LEE	2084463	20200106	BOND REV
165854201010	COM	338	20191228	GUTIERREZ, KRISTIN A	1616648	20200106	BOND REV
165879901010	FID	338	20191231	FIELDING, CHADRIC	2781844	20200107	BOND REV
165907001010	FID	338	20200102	UMANZOR, MARIA ABIGAIL	1805066	20200107	BOND REV
165908601010	FID	338	20200102	CALHOUN, FANTASIA TIJAE	3038775	20200107	BOND REV
165869701010	COM	338	20191230	CORREA, FLORENTINO	2578847	20200107	BOND REV
165944401010	FID	338	20200105	BLAKE, DOMINIQUE	2367607	20200108	BOND REV
164344301010	FID	338	20190822	ARMSTRONG, COREY	2961141	20200109	BOND REV
165966901010	FID	338	20200107	ARMSTRONG, COREY.	2961141	20200109	BOND REV
164135601010	FID	338	20190804	MALBROUGH, NICOLE MARIE	2178438	20200110	BOND REV
165154601010	FID	338	20191029	MALBROUGH, NICOLE MARIE	2178438	20200110	BOND REV
161198601010	FID	338	20181115	MALBROUGH, NICOLE MARIE	2178438	20200110	BOND REV
160852301010	COM	338	20181014	MALBROUGH, NICOLE MARIE	2178438	20200110	BOND REV
161198701010	FID	338	20181115	MALBROUGH, NICOLE MARIE	2178438	20200110	BOND REV
163267601010	FID	338	20190524	EWING, DEAN ALAN	2999917	20200115	BOND REV
163267501010	FID	338	20190524	EWING, DEAN ALAN	2999917	20200115	BOND REV
161755601010	FIN	338	20190109	GASPARD, SPENCER LEE	2178240	20200117	BOND REV
160405601010	FID	338	20180905	ROBERTSON, COLE ALEXANDER	2044410	20200123	BOND REV
164833201010	FID	338	20191002	MITCHELL, DARREL PRINCE-TICO	2545576	20200127	BOND REV
164952601010	FID	338	20191011	HENSEN, SHAWN LAWRENCE	1680983	20200131	BOND REV
164952501010	FID	338	20191011	HENSEN, SHAWN LAWRENCE	1680983	20200131	BOND REV
166252001010	COM	338	20200130	HARDMAN, RASHARD	1823749	20200131	BOND REV
166307901010	FID	338	20200203	GARCIA, FRANCISCO	593258	20200204	BOND REV
159937101010	FID	338	20180727	SPURGEON, BRANDON MICHAEL	2307091	20200205	BOND REV
164465101010	FIN	338	20190901	PENADO, ALEXANDER	3016368	20200207	BOND REV
166387101010	FID	338	20200208	GRIFFIN, ZACHARY JAVIAN	2696932	20200210	BOND REV
166391101010	FID	338	20200209	JOHNSON, ERIC JR	2520425	20200210	BOND REV
166388901010	COM	338	20200209	DAVIDSON, BOBBY N	3045099	20200210	BOND REV
165461601010	FID	338	20191124	HIGHSMITH, MERCEDES LEE	2331578	20200212	BOND REV
165692901010	FID	338	20191214	ARNOLD, ANDREW JACK	1898994	20200213	BOND REV
165339801010	FID	338	20191114	FOSTER, MICHAEL JAMES	2755119	20200213	BOND REV
165053401010	FID	338	20191020	PEREZ, SHANE STEVEN	2757642	20200214	BOND REV
163619201010	COM	338	20190622	ATKINS, MARCUS ALAN	2015847	20200219	BOND REV
166501701010	MAJ	338	20200218	MASON, ROBERT EARL	1918256	20200219	BOND REV
166501801010	FID	338	20200218	MASON, ROBERT EARL	1918256	20200219	BOND REV
165222801010	FID	338	20191103	STEEL, DONALD	12441	20200221	BOND REV
166532401010	FID	338	20200220	BROOKS, GRAILAND TROY	2070248	20200224	BOND REV
153240901010	FIN	338	20161129	SOLORIO, JUAN JOSE	2886287	20200225	BOND REV
163726601010	FID	338	20190701	VANTVLIE, KARL DOUGLAS	3005347	20200226	BOND REV
165402201010	FID	338	20191119	NASH, QUALON DEVON	2624993	20200226	BOND REV
166609301010	FID	338	20200226	ALATORRE, RIGOBERTO	1399490	20200302	BOND REV
163327501010	FID	338	20190529	COLBERT, RALPH LEE	2797624	20200302	BOND REV
166632901010	FID	338	20200228	CARRILLO, DAVID	3048499	20200302	BOND REV
166636901010	FID	338	20200228	MCNEAL, TIMOTHY DESHAN	2639285	20200302	BOND REV
164346701010	FID	338	20190823	SHIELDS, DENICCO	3013837	20200303	BOND REV
165239201010	FID	338	20191105	WHITE, STEVEN ANTHONY	2204130	20200303	BOND REV
164305901010	FID	338	20190819	SHIELDS, DENICCO	3013837	20200303	BOND REV
165239101010	FID	338	20191105	WHITE, STEVEN ANTHONY	2204130	20200303	BOND REV
165971701010	FID	338	20200108	HENSON, SHAUN LAWRENCE	1680983	20200304	BOND REV
160983301010	FID	338	20181026	LARIOS, RIGOBERTO JR	1794418	20200304	BOND REV
166709601010	COM	338	20200305	KELLY, HORACE J.	3049430	20200306	BOND REV
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166385501010	FID	338	20200208	TRAN, TEDDY	3045075	20200407	BOND REV
167266601010	FID	338	20200423	WILTZ, JOHNNY RAY	2641554	20200428	BOND REV
166458801010	FID	338	20200214	JAMES, KELVIN GREG	3046224	20200513	BOND REV
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164128001010	FID	338	20190804	HAMPTON, HAROLD DAVID	2237094	20200519	BOND REV
167663601010	FID	338	20200524	ROSS, USHIKA SHALONDA	2517894	20200526	BOND REV
167635601010	FID	338	20200522	TORRES, RICARDO	3056837	20200526	BOND REV
167575801010	FID	338	20200518	LOPEZ, JOSE	2260195	20200526	BOND REV
167654601010	FID	338	20200523	RIVERA SOTO, DENIS NOE	3056912	20200526	BOND REV
164346401010	FID	338	20190823	MCKNIGHT, DUSTIN LLOYD	3011786	20200601	BOND REV
164179601010	FID	338	20190808	MCKNIGHT, DUSTIN LLOYD	3011786	20200601	BOND REV
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167764801010	FID	338	20200531	YOUNG, ANDRAE	2922783	20200602	BOND REV
166902601010	FID	338	20200321	MEYZEN, NICHOLAS JON	2952618	20200602	BOND REV
167493401010	FID	338	20200512	PRESAS, NOEL	3056174	20200604	BOND REV
167802401010	MAJ	338	20200604	GUILLORY, JAYLEN	3003929	20200608	BOND REV
163604301010	FID	338	20190621	GUILLORY, JAYLEN	3003929	20200608	BOND REV
166299701010	FID	338	20200202	ALBERTO, WILLIAM ACOSTA	3043865	20200609	BOND REV
167811501010	FID	338	20200605	CAMMACK, DAVID NATHANIEL	2918562	20200609	BOND REV
167769901010	COM	338	20200601	PRICE, OCTAVIA	1564694	20200609	BOND REV

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167900601010	COM	338	20200613	CANTU, ERICA	2256416	20200615	BOND REV
167907301010	FID	338	20200614	CASILLAS, FRANCISCO	2745885	20200616	BOND REV
166013601010	FID	338	20200110	HUGHES, RICHARD WAYNE	1679939	20200617	BOND REV
167919401010	FID	338	20200615	LOPEZ, JOSE ARMANDO	2651420	20200617	BOND REV
166013501010	FID	338	20200110	HUGHES, RICHARD WAYNE	1679939	20200617	BOND REV
165141801010	FID	338	20191028	CASTANEDA, JOEL IV	2075759	20200617	BOND REV
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166827701010	FID	338	20200314	PAYNE, HARTZELL DELOSE	2627596	20200618	BOND REV
164988701010	FID	338	20191014	STANICK, MICHAEL	2143321	20200618	BOND REV
164839701010	FID	338	20191002	WOODS, ALVIN CHARLES	1387702	20200622	BOND REV
166896401010	COM	338	20200320	GARFIAS, MICHAEL	2439673	20200623	BOND REV
159279201010	FID	338	20180530	PIPER, TAJAMAN LYNN	2950168	20200623	BOND REV
168050801010	FID	338	20200628	GOUDEAU, TALON MATTHEW	2809837	20200629	BOND REV
166630601010	FID	338	20200228	BROWN, PATRICK	1684005	20200629	BOND REV
165344501010	FID	338	20191114	CRUZ, SALATIEL SERRANO	2793390	20200629	BOND REV
168073001010	FID	338	20200630	DAWKINS, DALLAS	2395511	20200701	BOND REV
167947001010	FID	338	20200617	MEJIA, ISAIAS MIGUEL	2902163	20200701	BOND REV
164618101010	FIN	338	20190914	THORNTON, CHRISTOPHER ROBIN	2758744	20200702	BOND REV
167452101010	FID	338	20200508	MORENO, ADRIAN OSVALDO	1714341	20200706	BOND REV
168110201010	FID	338	20200703	BRAVO, ANGEL ANTONIO	3059989	20200706	BOND REV
157463701010	FID	338	20171222	RENDON, BENJAMIN OSCAR JR	1438804	20200707	BOND REV
168170701010	FID	338	20200709	JOSEPH, JOHN CHRISTOPHER	3060373	20200713	BOND REV
168192301010	FID	338	20200710	LANCASTER, ZACHARY	2947900	20200713	BOND REV
159274401010	FID	338	20180530	NEELY, JEFFERY QUINTON	2109253	20200713	BOND REV
168192401010	FID	338	20200710	SOSA, MARIAH	2645645	20200713	BOND REV
168186601010	FID	338	20200710	LANCASTER, ZACHARY JOVON	2947900	20200713	BOND REV
168204601010	FID	338	20200712	WARREN, GENNA MORGAN	2333199	20200713	BOND REV
168212901010	FID	338	20200713	CALLES, ANGEL CRISTOBAL	3060603	20200714	BOND REV
168183701010	FID	338	20200710	NEELY, JEFFERY	2109253	20200715	BOND REV
164827401010	FID	338	20191001	MATHIS, JAMIE DON	2872814	20200715	BOND REV
168014601010	FID	338	20200624	CRUZ, SALATIEL SERRANO	2793390	20200716	BOND REV
168239801010	FID	338	20200715	WILLIAMS, JOSHUA	2515770	20200716	BOND REV
168274301010	FID	338	20200718	MOON, DENNIS RAY	2748787	20200720	BOND REV
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168272501010	FID	338	20200718	MOON, DENNIS RAY	2748787	20200720	BOND REV
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168313201010	FID	338	20200721	LEWIS, WILLIAM CHRISTOPHER	1772849	20200723	BOND REV
168319701010	COM	338	20200722	STOKES, JACOB NATHANIEL	3061176	20200723	BOND REV
165023001010	FID	338	20191017	SHARP, NOLAN MCKINNEY	2513977	20200723	BOND REV
166803001010	FID	338	20200312	GARCIA, ROMEO	2738065	20200727	BOND REV
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166862301010	FID	338	20200317	NUNN, KEESHA	1757035	20200728	BOND REV
168368901010	FID	338	20200726	REICKENBACKER, CHRISTOPHER S	1061782	20200728	BOND REV
167481501010	FID	338	20200511	NUNN, KEESHA MARIE	1757035	20200728	BOND REV
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166523901010	COM	338	20200219	CHAMBERS, HAYDEN	2437119	20200803	BOND REV
168420501010	FID	338	20200730	MILLER, LARRY SHELTON	1745923	20200803	BOND REV
168447901010	COM	338	20200801	ROMERO, SYLVIA MARIA	2516772	20200803	BOND REV
168425901010	COM	338	20200731	CHAMBERS, HAYDEN	2437119	20200803	BOND REV
168420601010	FID	338	20200730	MILLER, LARRY SHELTON	1745923	20200804	BOND REV
168454701010	FID	338	20200802	REYNA, JOSE FELIX	2520125	20200804	BOND REV
168439401010	COM	338	20200801	WATSON, KERRY	2736017	20200804	BOND REV
164415401010	FID	338	20190828	WILLIAMS, LIONEL RUNEA	3015532	20200805	BOND REV
168529901010	FIN	338	20200808	BENNETT, KIARA	3053384	20200810	BOND REV
167034601010	FID	338	20200403	BENNETT, KIARA	3053384	20200810	BOND REV
168529201010	COM	338	20200808	VARGAS, ARMANDO	2227501	20200810	BOND REV
166255401010	FID	338	20200130	TOUSSANT, RONNIE	1974065	20200810	BOND REV
168537501010	FID	338	20200809	MARTINEZ, TOMAS LARRY	703484	20200810	BOND REV
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167236201010	FID	338	20200421	GARZA, ROMUALDO	1952374	20200810	BOND REV
168550201010	COM	338	20200810	GARZA, FRANCISCO SANMIGUEL	2316455	20200811	BOND REV
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167949001010	FID	338	20200617	NAPOLES ARIAS, FIDEL	2833969	20200817	BOND REV
168609201010	FID	338	20200814	PERALES, MOISES	1859590	20200817	BOND REV
165888001010	FID	338	20191231	EVANS, HEATHER J.	1724883	20200818	BOND REV
168640601010	COM	338	20200816	TYLER, ALIZE SAWYER	3063106	20200818	BOND REV
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167742601010	FID	338	20200529	EVANS, HEATHER J.	1724883	20200818	BOND REV

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168673201010	FID	338	20200819	STRANGE, JOSHUA	2963781	20200824	BOND REV
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166196001010	FID	338	20200125	TAYLOR, MAURICE DARRELL	2494155	20200902	BOND REV
168823701010	FID	338	20200831	CAMPOS, ZACHARY	1990971	20200902	BOND REV
165339801010	FID	338	20191114	FOSTER, MICHAEL JAMES	2755119	20200903	BOND REV
164783001010	FID	338	20190928	HORTON, JAREAL CHRISTOPHER	1999156	20200908	BOND REV
168881101010	FID	338	20200904	TWITTY, COLBY JARWAYNE	2199627	20200908	BOND REV
165940401010	FID	338	20200105	HORTON, JAREAL CHRISTOPHER	1999156	20200908	BOND REV
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160819701010	FID	338	20181011	GUTIERREZ, PEDRO JR.	519104	20200929	BOND REV
169153101010	FID	338	20200925	GUIERREZ, PEDRO	519104	20200929	BOND REV
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169235201010	COM	338	20201002	HERNANDEZ, PETE	1826793	20201005	BOND REV
169250901010	FID	338	20201003	BURRIS, RAYQUAN JEREL	2861223	20201005	BOND REV
166407501010	FID	338	20200210	PEREZ, SHANE S	2757642	20201006	BOND REV
166195501010	COM	338	20200125	GARCIA, ETHAN	2634697	20201007	BOND REV
165813201010	FID	338	20191224	MATHIS, BYRON	2498964	20201008	BOND REV
169293801010	COM	338	20201007	DIXON, ADRIAN	2075164	20201008	BOND REV
168794501010	FID	338	20200828	MARTINEZ, DANIEL ADAM	3064571	20201014	BOND REV
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169415601010	FID	338	20201016	JAMES, CHAKITA	1435073	20201019	BOND REV
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169448301010	COM	338	20201019	JOHNSON, VIRGIL MERL	3062440	20201020	BOND REV
169442201010	FID	338	20201018	CAMACHO, BRANDON	2837461	20201020	BOND REV
166014501010	FID	338	20200111	HOLLAND, JIMARQUIS	2527379	20201021	BOND REV
167177901010	FID	338	20200416	HOLLAND, JIMARQUEZ GLENN	2527379	20201021	BOND REV
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169475601010	COM	338	20201020	HENDERSON, JASON	1936149	20201026	BOND REV
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166792501010	COM	338	20200312	TORRES, JUAN	1062192	20201027	BOND REV
166964101010	FID	338	20200327	GOOD, JOSHUA LOGAN	2188259	20201028	BOND REV
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168652001010	FID	338	20200817	DOBBINS, BRYANT LANE	2548860	20201028	BOND REV
169347401010	COM	338	20201011	WASHINGTON, SABRINA ROCHELLE	3032282	20201028	BOND REV
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169555101010	COM	338	20201026	WASHINGTON, SABRINA	3032282	20201028	BOND REV
164924101010	FID	338	20191009	BASSETT, EDDIE	1884492	20201029	BOND REV
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169594401010	COM	338	20201029	DUCKWORTH, WARREN TAVARES	1561955	20201102	BOND REV
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169634701010	FID	338	20201101	PALESTINA, VICENTE JR	2546145	20201103	BOND REV
169634801010	FID	338	20201101	PALESTINA, VICENTE JR	2546145	20201103	BOND REV
166689101010	FID	338	20200304	RODRIGUEZ, JOSE MANUEL	2991221	20201103	BOND REV
168977101010	FID	338	20200912	DOTY, JEFFREY MARK	2314843	20201105	BOND REV
162454301010	FID	338	20190314	GARCIA-NARANJO, HAYDER	2877100	20201105	BOND REV
168977201010	FID	338	20200912	DOTY, JEFFREY MARK	2314843	20201105	BOND REV
169211301010	COM	338	20200930	JENKINS, GARY	2664760	20201109	BOND REV
169703001010	COM	338	20201106	JENKINS, GARRY LIVELLE	2664760	20201109	BOND REV
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169484101010	FID	338	20201021	ALANIZ, JOSE ROLANDO	2903162	20201109	BOND REV
169520801010	FID	338	20201024	PATTON, KESHA	1661767	20201110	BOND REV
167095601010	FID	338	20200409	CHARLES, SCOTTY C	2485785	20201110	BOND REV
169737301010	COM	338	20201109	BRACY, DAMON SR	3073669	20201111	BOND REV
168315101010	FID	338	20200721	WILLIAMS, WYLEA LAJUAN	3061167	20201112	BOND REV
169767601010	COM	338	20201111	RICHARDSON, BRITTANY LEE	3073898	20201116	BOND REV
169801201010	FID	338	20201113	ESSENBERG, LOGAN LEE	3074113	20201116	BOND REV
169804501010	FID	338	20201114	LEWIS, CARELTON EVERARD	993324	20201116	BOND REV
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169804601010	FID	338	20201114	LEWIS, CARELTON EVERARD	993324	20201116	BOND REV
169810901010	FID	338	20201114	GARCIA-RAMIREZ, ESMERIGILDO SAMMY	2917985	20201116	BOND REV
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169819501010	COM	338	20201115	CANTERO, FILIBERTO	1910091	20201117	BOND REV
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167513601010	FID	338	20200513	GOODSON, TYLER SCOT	2448532	20201130	BOND REV
169930001010	COM	338	20201123	LOCKRIDGE, DOUGLAS	2382163	20201130	BOND REV
169892201010	COM	338	20201120	BRANCH, ALAINA NICOLE	3075028	20201130	BOND REV
169977201010	COM	338	20201127	OVERTON, DANIELLE YOSHIDA	2603570	20201130	BOND REV
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169900101010	COM	338	20201121	METTING, RICKY RAY	168407	20201201	BOND REV
166058201010	FID	338	20200115	KEGLEY, JOHNNY MICHAEL	1238154	20201202	BOND REV
164335201010	FID	338	20190822	DOTSON, MICHEAL DWAYNE	1717000	20201202	BOND REV
166058101010	FID	338	20200115	KEGLEY, JOHNNY MICHAEL	1238154	20201202	BOND REV
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168173001010	FID	338	20200709	ROZELLE, JUSTIN	3023788	20201207	BOND REV
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170094501010	COM	338	20201206	SUSTAITA, GILBERTO	2588279	20201208	BOND REV
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162473501010	FID	338	20190315	CONDE, ARNULFO RORDIGUEZ	1869260	20201210	BOND REV
170138001010	COM	338	20201209	WILLIAMS, PHILLIP DEWAYNE	2509573	20201210	BOND REV
170196901010	COM	338	20201213	GARCIA, RAFAEL ESPINOSA	1539225	20201214	BOND REV
167250101010	FID	338	20200422	MARES, EDGAR	2406199	20201215	BOND REV
169847001010	COM	338	20201117	JACKSON, RAVAN SYMORA	2510332	20201215	BOND REV
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153273701010	MAJ	338	20161201	O'SULLIVAN, TRAVIS	2159421	20201216	BOND REV
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170037601010	FID	338	20201202	CASTANEDA, ALBERTO	2782312	20201217	BOND REV
170156301010	COM	338	20201210	WATSON, WILLIAM JAMES	2576842	20201217	BOND REV
163931201010	FID	338	20190718	PEREZ, KENNETH LOUIS	2815723	20201217	BOND REV

Exhibit B

State Commission on Judicial Conduct

PO Box 12265

Austin, TX 78711-2265

Tel. (512) 463-5533 · Toll Free: (877) 228-5750

Complaint Form

- If you are filing a complaint about more than one judge, please use a separate form for each judge.
- You may complete this form online before printing.
- Send the completed form and any additional pages or related documents to SCJC.

For SCJC use only.

* Indicates required fields. Please note that faxed complaints will NOT be accepted.

Mark Thiessen on behalf of HCCLA &
 *Your name: Grant Scheiner on behalf of TCDLA

*Judge: Ramona Franklin

*Mailing Address: HCCLA: P.O. Box 924523, Houston, TX 77292

*Court Number: 338th Judicial District Court

*City, State Zip: TCDLA: 6808 Hill Meadow Drive, Austin, TX 78736

*City and County: Houston, Harris County, Texas

*Date of Birth: M. Thiessen: 6/27/1978
 G. Scheiner: 2/15/1967

Your Phones: Day () HCCLA: 713-227-2404
 TCDLA: 512-478-2514

Evening ()

Cell/Other ()

Best time to call you: ☐ A.M. ☐ P.M.**If your complaint involves a court case, please provide the following information:**

Cause Number: see attached

Status of your case: ☐ Pending ☐ Concluded ☐ On appeal

Your attorney:

Opposing Attorney:

Address:

Address:

City/Zip:

City/Zip:

Phone Number(s):

Phone Number(s):

PLEASE FILL IN ALL INFORMATION AVAILABLE FOR ANY WITNESSES (attach additional pages as needed)

Name: see attached

Name:

Address:

Address:

Phone Number(s):

Phone Number(s):

What did this person witness?

What did this person witness?

see attached

If you are submitting documents, please provide copies, not originals.

I understand that as part of the Commission's investigation the judge may be provided a copy of this complaint. Please note - the Commission will do its best to maintain your confidentiality, if you so request. However, it may not be possible for us to pursue our investigation without revealing your identity at some point. If it is necessary to reveal your identity directly to the judge, we will advise you before proceeding.

*I request that my identity be kept confidential. ☐ Yes ☐ No

*Signature:

*Date: 8/24/20

How did you hear about the State Commission on Judicial Conduct? (please select one) ☐ State Bar of Texas

☐ Another State agency ☐ News media ☐ Attorney ☐ Friend ☐ Other:

Details of Complaint

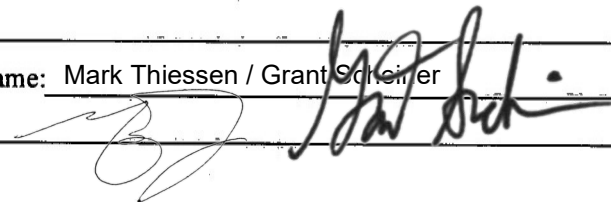
Please type or print the factual details of your complaint in the space provided below. **Please include the date(s) of the alleged misconduct.** If more space is needed, attach additional sheets. Please sign and date each additional sheet. Your complaint should be as specific as possible, PLEASE DO NOT CITE CASE LAW IN YOUR COMPLAINT.

*Date(s) of Alleged Misconduct of Judge: August 10, 2020 to present

*Factual Details of your complaint against Judge:

see attached

*Printed Name: Mark Thiessen / Grant Scheiner

*Signature: 

*Date: 8/24/20

Before the Office of the
State Commission on Judicial Conduct

**FORMAL COMPLAINT OF THE
HARRIS COUNTY CRIMINAL LAWYERS ASSOCIATION
and
TEXAS CRIMINAL DEFENSE LAWYERS ASSOCIATION
AGAINST**

**The Honorable Ramona Franklin
Presiding Judge, 338th Judicial District Court
of Harris County, Texas**

TO THE STATE COMMISSION ON JUDICIAL CONDUCT:

The Harris County Criminal Lawyers Association, by and through its duly elected president, Mark Thiessen, and the Texas Criminal Defense Lawyer's Association, by and through its duly elected president, Grant Scheiner, formally submits this complaint pursuant to Texas Government Code, Section 33.021 *et seq*, against the Honorable Ramona Franklin, Presiding Judge of the 338th Judicial District Court of Harris County, Texas.

The Harris County Criminal Lawyers Association ("HCCLA") is the largest local criminal defense bar in the United States, with more than 700 active members engaged in the defense of citizens accused of criminal acts. HCCLA has, for over 50 years, stood for criminal justice, criminal justice reform, and against government and judicial overreach.

The Texas Criminal Defense Lawyers Association (“TCDLA”) is the largest state association for criminal defense attorneys in the nation with over 3,200 members. TCDLA’s purpose is to protect and ensure by rule of law and protect those individual rights guaranteed by the Texas and federal Constitutions in criminal cases; to resist the constant efforts which are now being made to curtail such rights; to encourage cooperation between lawyers engaged in the furtherance of such objectives through educational programs and other assistance; and through such cooperation, education, and assistance, to promote justice and the common good.

UNDERLYING FACTS & BACKGROUND

This complaint pertains to Judge Franklin’s actions taken against multiple defendants charged with felony offenses. In Harris County, any time a person is arrested, they are taken before a magistrate who considers a host of information about the defendant and their case and decides what an appropriate bail amount is, including whether that person should be released on a personal bond. After defendants are released from custody on the bonds set by these magistrates, they have to appear before the district court their case is assigned to, often times within a day or even hours of their release.

In the case of Judge Franklin, these defendants complied with this obligation, going to court alone and expecting to be given an opportunity to retain counsel or request the appointment of counsel. Before addressing the matter of counsel, however, Judge Franklin would, without notice, without cause, and in violation of the law and

the defendants' Constitutional rights, revoke their bonds on her own motion with no new information whatsoever and order them remanded back into custody. These were all individuals who were presumed innocent, many who paid hard-earned money to secure their release and provided sufficient security for their appearance in court to answer for their alleged crime, and did, in fact, appear before Judge Franklin, sometimes within hours of their release. Without cause, they suddenly found themselves thrust into a situation where they were deprived of their fundamental rights, unilaterally treated as though they were guilty, and reincarcerated without cause in violation of the law.

One defendant challenged this illegal action and the Court of Appeals for the First District in Houston held that Judge Franklin's conduct indeed violated the law. In the days and weeks after this written decision was handed down and became final, however, Judge Franklin continued to repeatedly revoke defendants' bonds in the same manner and, worse, denied them bail altogether by illegally setting their bail amounts at \$0. This unconscionable conduct must stop. By continuing to act in the manner in which she has, Judge Franklin has violated numerous Canons of the Code of Judicial Conduct.

The Harris County Bail System

Judge Franklin has been the presiding judge of the 338th District Court since being elected in 2016. The 338th District Court is one of 22 district courts in Harris

County assigned to hear felony criminal cases and other criminal cases that fall within the jurisdiction of a district court.¹

In Harris County, all defendants arrested for criminal offenses are taken before a magistrate, or, more specifically, a criminal law hearing officer. These hearing officers have limited, concurrent jurisdiction with the criminal district court.² More specifically, they are charged with, among other things, “determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts or county criminal courts at law,” and, more pertinent to this complaint, “committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require.”³ They are given the first opportunity to “determine the amount of bail and grant bail pursuant to Chapter 17, Code of Criminal Procedure, and as otherwise provided by law” to a defendant.⁴

In response to recent litigation in federal court regarding the county’s bail system,⁵ numerous changes were made to procedures related to bail hearings before these

¹ See TEX. GOV’T CODE § 24.484 (West 2020).

² Their authority is conferred by Sections 54.851 through 54.861 of the Texas Government Code. See TEX. GOV’T CODE § 54.851 – .861 (West 2020).

³ TEX. GOV’T CODE § 54.856 (West 2020).

⁴ TEX. GOV’T CODE § 54.858(b) (West 2020).

⁵ See *ODonnell v. Harris County*, 892 F.3d 147 (5th Cir. 2018).

hearing officers. For one, shortly after their arrest, defendants are interviewed by staff with the office of Pretrial Services who, based on that information and their own investigation, prepare a Public Safety Assessment (PSA) report to present to the hearing officers to be used in their determination of bail.⁶ The reports are designed to determine whether a person is a low or high risk for re-offending, committing a violent crime, or failing to show up for court.⁷

Additionally, a pilot program was created to make public defenders from the Harris County Public Defender's Office available at these hearings to represent and advocate for defendants to be released on bail where appropriate.⁸ Prior thereto, only an Assistant District Attorney was present at these hearings to present probable cause and make bail recommendations. Based on the new system, hearing officers are provided more information and, more importantly, balanced information from advocates for both the State and a defendant. These hearings are also recorded and available for later review.⁹

⁶ See "County Says Assessment Tool Will Help with Bail Decisions" by Mihir Zaveri, Houston Chronicle, July 25, 2017 <available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/County-says-assessment-tool-will-help-with-bail-11418689.php> (last visited August 18, 2020).

⁷ *Id.*

⁸ "Harris County to Place Public Defenders at Bail Hearings" by Mihir Zaveri, Houston Chronicle, March 14, 2017 <available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/Harris-County-to-place-public-defenders-at-bail-11002089.php> (last visited August 18, 2020).

⁹ See *Ex parte Gomez*, No. 01-20-00004-CR, 2020 WL 4577148, at *1, n.2 (Tex. App.—Houston [1st Dist.] Aug. 7, 2020, pet. filed).

Given their authority, hearing officers will set the amount of bail that a defendant has to pay to secure their release and also determine whether the defendant is entitled to release on a personal bond.¹⁰

This Commission, two years ago, reviewed the actions of three Harris County criminal law hearing officers and found all three violated the Code of Judicial Conduct by failing to comply with the law and failing to maintain competence in the law by strictly following directives not to issue personal bonds to defendants per the instructions of the judges in whose court the underlying cases were assigned.¹¹ Accordingly, Harris County criminal law hearing officers have since properly considered and granted personal bonds when appropriate.

Proceedings Before Judge Franklin

Harris County is unique and different from several other Texas counties in that, immediately upon a person's arrest for an offense, a criminal complaint is filed by the District Attorney's Office and the case is assigned by the District Clerk to one of the criminal district or county courts. If a person is not arrested, a similar process ensues, that is, a criminal complaint (or other criminal charging instrument) is filed with the

¹⁰ See TEX. CODE CRIM. PROC. art 17.03 (West 2020).

¹¹ See CJC No. 17-0351-AJ, Public Admonition and Order of Additional Education re: Honorable Jill Wallace, Criminal Law Hearing Officer Houston, Harris County, Texas; CJC No. 17-0352-AJ, Public Admonition and Order of Additional Education re: Honorable Joseph Licata, III, Criminal Law Hearing Officer Houston, Harris County, Texas; CJC No. 17-0353-AJ, Public Admonition and Order of Additional Education re: Honorable Eric Hagstette, Criminal Law Hearing Officer Houston, Harris County, Texas.

District Clerk, the case is assigned to one of the criminal district or county courts and, upon a finding by a magistrate that probable cause exists, a capias (or warrant) is issued for the defendant's arrest.

Because of this "direct filing" system, once a defendant charged with a felony offense is arrested and then subsequently released from custody after being granted a personal bond or posting a bail bond, that defendant must make an immediate appearance before the district court that their case is assigned to, usually within 48 hours from the time of their release. This is where Judge Franklin would first become involved in a defendant's case.

While some defendants are able to secure counsel to represent them and be present with them for these "preliminary initial appearances" or "preliminary assigned court appearances," because of the relatively short period of time that passes between the defendant's release and preliminary initial appearances, often times defendants appear before district court judges like Judge Franklin without counsel. For those defendants who are indigent and cannot afford counsel, this is their opportunity to request and receive the appointment of counsel. For those who are not, the typical process is that they inform the court that they wish for time to hire an attorney and the case is reset for a period of time to afford the defendant that opportunity.

Where Judge Franklin's actions cross the line in terms of ethics and lawfulness is when one looks at what else she has done — and continues to do — at these initial appearances. For several years, many of our organization's members have observed

Judge Franklin call defendants up to the bench whether or not they were represented by counsel and, without a record being made of the proceedings, conduct a “bail review.” No notice of this extra-statutory procedure was or is ever given to the defendant or published in any publicly available form. While Judge Franklin has maintained in the past that she asks an attorney “to stand in” with an unrepresented defendant during these proceedings, there is never any formal appointment of counsel and often not even a record of who these “stand in” attorneys are.¹² More recently and more often, however, there is no attorney present at all on behalf of the defendant and, again, no record is made of these proceedings.

Judge Franklin would then ask the Assistant District Attorney assigned to her court to read the probable cause statement, almost always the same statement provided to the hearing officers when the defendant was before them. Then, without any motion or urging from the attorney for the State, Judge Franklin would *sua sponte* revoke the defendant’s bond, raise the bail amount previously and lawfully set by the hearing officer and made by the defendant, and order the defendant to be remanded into the custody of the sheriff without cause, any finding, or stated reason.

¹² Such an attorney would have no knowledge of the defendant’s case or situation and would not have had the opportunity to consult with any such defendant.

The Case of Joseph Gomez

The case of Joseph Gomez exemplifies this illegal behavior by Judge Franklin. Gomez was arrested and charged with the felony offenses of burglary of a habitation and assault of a family member by choking in November 2019. Shortly after his arrest, a hearing officer reviewed his cases and set bail at \$25,000 and \$15,000 on each case, respectively. Gomez's father immediately paid a bondsman to post surety bonds in those amounts and Gomez was released thereafter.

Only hours later that same morning, as directed on his bond paperwork, Gomez appeared before Judge Franklin. He intended to ask her to reschedule his case and give him an opportunity to retain counsel. However, without any prior notice or the opportunity to have counsel of his own choosing present, Judge Franklin called him up to the bench and asked the Assistant District Attorney assigned to her court to read the probable cause statement. After hearing this otherwise-inadmissible reading of the probable cause, Judge Franklin *sua sponte* revoked the bonds Gomez had just posted to secure his release, ordered Gomez remanded back into the custody of the sheriff, and raised the bail amounts to \$75,000 in each case without any finding or stated reason. Despite his family having paid their hard-earned money to secure Gomez's release, despite him not having violated any conditions of his bond, and having complied with the obligation of his bond to appear in court, Gomez found himself back in custody.

Gomez's attorneys (whom he subsequently retained while he was in custody) filed applications for writs of habeas corpus seeking to vacate Judge Franklin's orders

and requesting that the bonds be reinstated. At the hearing on the application, Gomez offered and admitted judicial court records showing where Judge Franklin had likewise revoked and raised bail amounts of defendants without a proper hearing, specific finding, or reason in several other cases pending in her court. Judge Franklin ultimately denied the writ applications and Gomez's attorneys appealed that decision to the First District Court of Appeals in Houston.

Gomez meanwhile sat in the Harris County Jail for a total of 269 days, his family unable to afford the new, total bail amount of \$150,000. On August 7, 2020, the court of appeals finally issued its decision in his case.

In a unanimous, memorandum opinion, the court of appeals held that Judge Franklin abused her discretion revoking Gomez's bond and raising the bail amount without good or sufficient cause.¹³ The court noted that Article 17.09 of the Texas Code of Criminal Procedure mandated that a defendant is not to be required to give bail twice in the same criminal action and set out a limited exception to this "one-bond rule" for when the "bond is defective, excessive or insufficient in amount, or that the sureties, if any, are not acceptable, or for any other good and sufficient cause."¹⁴ In finding that Judge Franklin abused her discretion in revoking his bonds, the court noted that Gomez did exactly what he was supposed to do and nothing he was not supposed to do:

¹³ *Ex parte Gomez*, 2020 WL 4577148, at *5.

¹⁴ *Id.* (citing TEX. CODE CRIM. PROC. art. 17.09 §§ 2 & 3 (West 2020)).

There is also no showing of any circumstances that changed in the roughly 30 hours that passed between the time the magistrate set the amount of bail and the time the trial court increased the amount of bail from \$40,000, combined, to \$150,000, combined. No new evidence became available, and the indictments were not returned until Monday, November 18, 2019. The only new information was that Gomez had given bail and appeared in court. There was no information on which the court could find a change in the balance of the State's interest in assuring Gomez's presence at trial as compared with the interest in preserving the presumption of innocence. We conclude that no "other good or sufficient cause" for revoking Gomez's bond, rearresting him, and ordering that he give bail in a higher amount is presented by the record in this appeal.¹⁵

The court of appeals then took the extraordinary step of not only reversing Judge Franklin's judgment on Gomez's habeas applications, but also ordering that the mandate issue immediately, and that Gomez's original bonds be reinstated to secure his immediate release from jail.¹⁶

Because the mandate issued immediately, the court of appeals decision became binding precedent.¹⁷ This, however, did not stop Judge Franklin. Not only did she repeatedly fail to follow the appellate court's precedent, as noted in the judicial records and affidavits attached, she did much worse.

Judge Franklin's Actions Post-Gomez

The following Monday, August 10, after the court of appeals issued its decision and mandate in *Gomez*, Judge Franklin held her regularly scheduled docket with a

¹⁵ *Id.* at *6.

¹⁶ *Id.* at *7.

¹⁷ *Id.*; see *Perez v. State*, 495 S.W.3d 374, 392 (Tex. App.—Houston [14th Dist.] 2016, no pet.).

number of defendants making their preliminary initial appearances. In total disregard for the court's holding in *Gomez*, Judge Franklin continued to review cases of multiple defendants who had just been released on bond and appeared in court as they were obligated to do, and, without good or sufficient cause, revoked their bonds and remanded them into the custody of the sheriff. However, instead of raising the bail amount to a higher amount like she had in Gomez's case, Judge Franklin this time took the additional, clearly illegal step of denying bail altogether by setting those defendants' bail amounts at \$0. Those defendants are as follows:

- ***Kiara Bennett*** – Bennett was arrested and charged on August 7, 2020 with the felony offense of assault on a peace officer. She appeared before a Harris County criminal law hearing officer on August 9, 2020 who reviewed the probable cause, PSA report, and heard from the attorney for the State and an appointed attorney for Bennett. The hearing officer set her bail amount at \$10,000.00 and granted her a release on a personal bond. Bennett was released from jail and appeared before Judge Franklin on Monday, August 10, 2020 without counsel. Without any finding, Judge Franklin revoked the bond, remanded Bennett into the custody of the sheriff, and raised the bail amount in her case to \$0 with no reason or explanation on the court's directive for doing so.¹⁸ The case filings reflecting this action are attached hereto as Exhibit A.
- ***Brian Smith*** – Smith was arrested and charged on August 8, 2020 with the felony offense of assault family member by choking. He appeared before a Harris County criminal law hearing officer on August 9, 2020 who reviewed the probable cause, PSA report, and heard from the attorney for the State and an appointed attorney for Smith. The hearing officer set bail amount at \$15,000.00 and granted him a release on personal bond. Smith was released from jail and appeared before

¹⁸ The State did file a motion to deny bail pursuant to Article I, Section 11a of the Texas Constitution alleging that Bennett was accused of a felony committed while on bail for a prior felony for which she had been indicted. However, no hearing was held where the State provided the necessary evidence to deny bail as required by that Article. No motions to deny bail were made in any other of these cases.

Judge Franklin on Monday, August 10, 2020 without counsel. Without any finding or motion from the State, Judge Franklin revoked the bond, remanded Smith into the custody of the sheriff, and raised the bail amount in his case to \$0 with no reason or explanation on the court's directive for doing so. The case filings reflecting this action are attached hereto as Exhibit B. Additionally, Brian Smith provided an affidavit of his account of what took place, attached hereto as Exhibit C, and David Cunningham, an attorney who was present in the courtroom on another matter and witnessed what took place in Smith's case provided an affidavit giving his account of what took place, attached hereto as Exhibit D.

- ***Tomas Larry Martinez*** – Martinez was arrested and charged on August 8, 2020 with the felony offense of driving while intoxicated, third offender. His bail was set on filing the complaint at \$25,000.00 and, hence, he did not appear before a hearing officer. Martinez posted a surety bond in that amount and was released from custody on August 9, 2020. Martinez appeared before Judge Franklin on Monday, August 10, 2020 without counsel. Without any finding or motion from the State, Judge Franklin revoked the bond, remanded Martinez into the custody of the sheriff, and raised the bail amount in his case to \$0 with no reason or explanation on the court's directive for doing so. The case filings reflecting this action are attached hereto as Exhibit E. Furthermore, Tomas Martinez intends to provide an affidavit which will be submitted at a later date as Exhibit F.
- ***Joseph Rene Gonzales*** – Gonzales was arrested and charged on August 5, 2020 with the felony offense of assault family member with previous conviction. He appeared before a Harris County criminal law hearing officer on August 6, 2020 who reviewed the probable cause, PSA report, and heard from the attorney for the State and an appointed attorney for Gonzales. The hearing officer set bail amount at \$25,000.00. Gonzales did not make bail and appeared before Judge Franklin on Monday, August 10, 2020 while still in custody. Without any finding or motion from the State, Judge Franklin raised the bail amount in his case to \$0 with no reason or explanation on the court's directive. The case filings reflecting this action are attached hereto as Exhibit G.

Judge Franklin continued this same illegal pattern of revoking bonds and denying bail the following day:

- ***Francisco Sanmiguel Garza*** – Garza was arrested and charged on August 9, 2020 with the felony offense of assault family member by choking. He appeared before a Harris County criminal law hearing officer on August 10, 2020 who

reviewed the probable cause, PSA report, and heard from the attorney for the State and an appointed attorney for Garza. The hearing officer set bail amount at \$5,000.00 and denied him release on personal bond. Garza posted a \$5,000.00 surety bond and was released from jail. He appeared before Judge Franklin on Tuesday, August 11, 2020 without counsel. Without any finding or motion from the State, Judge Franklin revoked the bond, remanded Garza into the custody of the sheriff, and raised the bail amount in his case to \$0 with no reason or explanation on the court's directive for doing so. The case filings reflecting this action are attached hereto as Exhibit H.

And, even more than a week after the *Gomez* decision, Judge Franklin continued to illegally revoke bonds and/or deny bail:

- ***Moises Perales*** – Perales was arrested and charged on August 13, 2020 with the felony offense of assault family member by choking. He appeared before a Harris County criminal law hearing officer on August 14, 2020 who reviewed the probable cause, PSA report, and heard from the attorney for the State and an appointed attorney for Perales. The hearing officer set bail amount at \$15,000.00 and granted him release on a personal bond. He appeared before Judge Franklin on Monday, August 17, 2020 without counsel. Without any finding or motion from the State, Judge Franklin revoked the bond, remanded Perales into the custody of the sheriff, and raised the bail amount in his case to \$0 with no reason or explanation on the court's directive for doing so. The case filings reflecting this action are attached hereto as Exhibit I.
- ***Joe Anthony Ruiz*** – Ruiz was arrested and charged on August 17, 2020 with the felony offense of assault family member with previous conviction and by choking. He appeared before a Harris County criminal law hearing officer that same day who reviewed the probable cause, PSA report, and heard from the attorney for the State and an appointed attorney for Ruiz. The hearing officer set bail amount at \$20,000.00 and denied him a personal bond. Ruiz appeared before Judge Franklin on Tuesday, August 18, 2020. Without any finding or motion from the State, Judge Franklin revoked his bond and raised the bail amount in his case to \$0 with no reason or explanation on the court's directive for doing so. The case filings reflecting this action are attached hereto as Exhibit J.

VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT

HCCLA and TCDLA complains that Judge Franklin has, by and through her actions, violated the following Canons of the Code of Judicial Conduct:

- Canon 2A of the Code of Judicial Conduct which states: “A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
- Canon 3B(2) of the Code of Judicial Conduct which states: “A judge should be faithful to the law and shall maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.”
- Canon 3B(8) of the Code of Judicial Conduct which states: “A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider *ex parte* communications or other communications made to the judge outside the presence of the parties between the judge and a party, an attorney, a guardian or attorney ad litem, an alternative dispute resolution neutral, or any other court appointee concerning the merits of a pending or impending judicial proceeding.”

VIOLATION OF CANONS 2A & 3B(2) – Failure to Follow Appellate Precedent to not Revoke Bonds Without Cause and Denying Bail Altogether

HCCLA and TCDLA complains that Judge Franklin has violated these Canons, not simply because a court of appeals found that she abused her discretion acting in the manner which she did in Joseph Gomez’s case, revoking bonds and raising bail amounts of defendants without good and sufficient cause or findings to support doing so, but because she has continued to act in the same manner despite the court of appeals’ ruling and binding precedent in Gomez’s case.

Under the principle of vertical *stare decisis*, a district court judge has no right to decide cases contrary to an opinion of the appellate court for its jurisdiction on the same question.¹⁹ Instead, judicial officers like Judge Franklin “must follow and be bound by a ruling of law made by a Court of Appeals until such ruling is overruled or set aside” by the Court of Criminal Appeals.²⁰

It is important to note that *Gomez* was decided on Friday, August 7, 2020, that the court of appeals issued its mandate to take effect immediately, and, most importantly, as is standard practice, that decision and the court’s orders were delivered to Judge Franklin that same day.²¹ Even if Judge Franklin were to feign ignorance of the court of appeals’ decision (for over a week), on Monday, August 17, Defendant Tomas Larry Martinez filed an application for writ of habeas corpus directing Judge Franklin to the *Gomez* decision and requesting that she reinstate the original bonds that Martinez posted just as the court of appeals had ordered to be done in *Gomez*.²² Judge Franklin denied Martinez’s request, but set a new, higher bail amount of \$40,000.00. Then, the following day, in Defendant Joe Anthony Ruiz’s case, Judge Franklin continued her

¹⁹ *Perez v. State*, 495 S.W.3d 374, 392 (Tex. App.—Houston [14th Dist.] 2016, no pet.) (citing *State ex rel. Healey v. McMeans*, 884 S.W.2d 772, 774 (Tex. Crim. App. 1994) (holding trial judges do not enjoy the freedom to ignore clear, binding precedent from a court of superior jurisdiction); *Mason v. State*, 416 S.W.3d 720, 728 n. 10 (Tex. App.—Houston [14th Dist.] 2013, pet. ref’d)).

²⁰ *Id.* (quoting *Hurt v. Oak Downs, Inc.*, 85 S.W.2d 294, 300 (Tex. Civ. App.—Dallas 1935, writ dism’d w.o.j.) (Bond, J., dissenting)).

²¹ See Exhibit K (attached) Letter of Court of Appeals.

²² See Exhibit L (attached) Application for Writ of Habeas Corpus re: Tomas Martinez.

pattern of illegally denying bail by revoking his bonds and denying bail by setting the amount in his case at \$0. For Judge Franklin to feign ignorance would either be disingenuous or a reflection of her lack of competence and obligation to stay abreast of the law as required by Canon 3B(2).

In short, Judge Franklin has ignored the lawful authority of the hearing officers to consider and set appropriate bail amounts in these cases and, now, is ignoring the direct precedent of the court of appeals finding that she abused her discretion by revoking a defendant's bonds without good and sufficient cause and failing to make any valid findings to support the bond revocation.

Separate and apart from Judge Franklin's refusal to follow the precedent of an appellate court for her jurisdiction, she has also demonstrated a complete disrespect for the law by not just illegally revoking defendants' bonds, but by further ordering that the defendants be denied bail by setting the bail amount in each of their cases at \$0.²³

It is axiomatic that "the power to deny bail cannot and 'will not be used as an instrument of oppression.'"²⁴ With narrow exceptions not applicable here, Article I, section 11 of the Texas Constitution provides that "All prisoners shall be bailable by

²³ See Exhibits A, B, E, G – J.

²⁴ *Pharris v. State*, 165 S.W.3d 681, 689 (Tex. Crim. App. 2005) (quoting *Taylor v. State*, 667 S.W.2d 149, 151 (Tex. Crim. App. 1984)).

sufficient sureties, unless for capital offenses, when the proof is evident.”²⁵ As stated in the interpretive commentary for that article,

Bail functions as a complement to the Anglo-American presumption of innocence by permitting a person charged with a criminal offense to regain his liberty with some assurance of his presence at trial, by requiring him to give security, subject to forfeiture, if he fails to appear and answer before the proper court on the accusation brought against him.²⁶

Several times, trial courts have been taken to task by appellate courts for failing to abide by this clear, constitutional mandate and denying bail to a defendants.²⁷ For instance, in *Ex parte Johnson*, the Court of Criminal Appeals held that the courts below engaged in a “series of unconscionable miscues” that resulted in the defendant in that case being held without bail for several months and ultimately granted him habeas relief.²⁸

²⁵ TEX. CONST. art. I § 11 (West 2020) (emphasis added).

²⁶ TEX. CONST. art. I, § 11, Interpretive Commentary (West 2020). *See also* *O'Donnell*, 892 F.3d at 158 (quoting *Ex parte Davis*, 574 S.W.2d 166, 169 (Tex. Crim. App. 1978) and *Taylor v. State*, 667 S.W.2d 149, 151 (Tex. Crim. App. 1984) (en banc)) (the courts of our State “have sought to limit the imposition of ‘preventive [pretrial] detention’ as ‘abhorrent to the American system of justice’” and that “‘the power to ... require bail,’ not simply the denial of bail, can be an ‘instrument of [such] oppression.’”).

²⁷ *Ex parte Johnson*, 876 S.W.2d 340, 341 (Tex. Crim. App. 1994); *Smith v. State*, 829 S.W.2d 885, 888 (Tex. App.—Houston [1st Dist.] 1992, pet. ref'd); *Gutierrez v. State*, 927 S.W.2d 783, 784 (Tex. App.—Houston [14th Dist.] 1996, no pet.); *Queen v. State*, 842 S.W.2d 708, 711 (Tex. App.—Houston [1st Dist.] 1992, no pet.); *Rodriguez v. State*, No. 01-03-00764-CR, 2003 WL 22147563, at *1 (Tex. App.—Houston [1st Dist.] Sept. 16, 2003, no pet.) (mem. op., not designated for publication).

²⁸ *Johnson*, 876 S.W.2d at 341.

There is no question that this is the law and that judges like Judge Franklin are obligated to follow that law. As one court of appeals has so eloquently stated in a case where it found a trial court erred in denying a defendant bail:

The trial and appellate courts of Texas have no “inherent powers” that permit them to ignore an express statutory or constitutional mandate. This fundamental tenet of our State’s jurisprudence does not evaporate when a particular judge of such a court has a concern that a particular individual, accused of a crime, represents a risk to the public safety. Even if that concern is in some particular instance well-founded . . . it still has no such evaporative effect. The courts of this State are bound to follow the will of the people of this State, as that will is expressed by the people in the constitution and in the laws enacted by their duly elected representatives. On the current state of expression of that will, the trial court’s concern about public safety is germane at most to the question of the *amount* of appellant’s bail, not to whether he is to be admitted to bail at all.²⁹

Here, Judge Franklin demonstrated over and over again her willingness to ignore the law. She ignored the lawful, appropriate decisions made by the hearing officers setting bail and granting personal bonds where appropriate. She ignored the binding precedent of the court of appeals finding that she abused her discretion by revoking a defendant’s bonds without good and sufficient cause and without any findings to support her actions. And, worst of all, she is now ignoring an express constitutional mandate that she not deny defendants bail. In conclusion, she must be held accountable for her failure to “comply with the law,” be “faithful to the law and . . . maintain professional competence in it” as required by Canons 2A and 3B(2) of the Code of Judicial Conduct.

²⁹ *Queen*, 842 S.W.2d at 711 (emphasis in original).

**VIOLATIONS OF CANONS 2A & 3B(8) –
Failure to Afford Defendants Due Process**

HCCLA and TCDLA further complains that Judge Franklin has violated these Canons in the manner in which she has acted illegally revoking defendants' bonds and denying them bail. In each of the cases referenced herein, Judge Franklin called each defendant up to her bench to stand there alone. By all accounts, they were unrepresented by counsel. Presumably, they were scared and had no idea what to expect. A prosecutor read off a hearsay statement of what is alleged. And then, all of a sudden, a bailiff grabbed them, took custody of them, and led them back to a holdover cell. It is unconscionable.

While Canon 3B(8) requires a judge to give "every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law," HCCLA and TCDLA maintains that, in the manner which Judge Franklin acted, each one of these defendants were functionally denied their right to be heard. More importantly, rather than promote "public confidence in the integrity and impartiality of the judiciary," as required by Canon 2A, her actions have done the exact opposite.

What does it say to the average person that you could be expected to show up in court, stand in front of a judge, and let that judge unilaterally decide your fate resulting in your unbounded incarceration? No attorney. No jury. No admissible evidence. In a span of a few minutes, each of these defendants — individuals who were supposed to be presumed innocent, who provided sufficient securities to insure their appearance,

complied with that obligation, and appeared before Judge Franklin — were being unilaterally adjudged as if they were guilty and led away into a holding cell to be held for an undetermined amount of time. That sort of action in no way instills “public confidence in the integrity and impartiality of the judiciary.” It amounts to a denial of one of our most fundamental tenets of law: due process.

The United States Supreme Court has noted that the “fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”³⁰ Stated more succinctly, “Failure to give notice violates ‘the most rudimentary demands of due process of law.’”³¹ And “[d]ue process is not satisfied where parties are not given prior notice of what is really at stake in a proceeding.”³²

It has been held that “due process requires the trial court to provide the defendant with reasonable notice that it intends to deny bail pending appeal and to allow the

³⁰ *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S. Ct. 652, 657, 94 L. Ed. 865 (1950).

³¹ *Peralta v. Heights Med. Ctr., Inc.*, 485 U.S. 80, 84, 108 S. Ct. 896, 99 L. Ed. 2d 75 (1988) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 550, 85 S. Ct. 1187, 1190, 14 L. Ed. 2d 62 (1965)).

³² *Smith v. State*, 993 S.W.2d 408, 416 (Tex. App.—Houston [14th Dist.] 1999, pet. ref’d) (Edelmen, J., dissenting) (citing *Lankford v. Idaho*, 500 U.S. 110, 119–28, 111 S. Ct. 1723, 114 L. Ed. 2d 173 (1991)).

defendant a meaningful opportunity to be heard.”³³ Although those are cases of bail pending appeal, HCCLA and TCDLA submits that the due process protections nevertheless apply — even more so because, whereas in the case of a person on bail pending appeal where the State has overcome the presumption of innocence and proven guilt beyond a reasonable doubt, in each of these cases, the defendants are still shrouded by the presumption of innocence.³⁴ Each of these defendants appeared in court and had no notice of what was about to take place. No notice that Judge Franklin intended to revoke their bonds. No notice that Judge Franklin intended to deny them bail.

Even worse, these were unrepresented defendants and denied their fundamental right to due process by having the assistance of counsel at a critical stage in the proceedings.³⁵ The Sixth Amendment provides that “[i]n all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence.”³⁶ The United States Supreme Court has recognized that “an element of this right is the right of a defendant who does not require appointed counsel to choose who will represent

³³ *Robinson v. State*, 700 S.W.2d 710, 713 (Tex. App.—Houston [14th Dist.] 1985, no pet.); see also *Smith*, 993 S.W.2d at 412 (“[W]e still agree with the *Robinson* court that due process protections of notice and a reasonable opportunity to be heard attach to an appeal bond revocation based on an appellant’s liberty interest.”).

³⁴ See *Ex parte Dupuy*, 498 S.W.3d 220, 230 (Tex. App.—Houston [14th Dist.] 2016, no pet.) (“A defendant is entitled to the presumption of innocence on all charges, and the trial court, when setting bail, must strike a balance between that presumption and the State’s interest in assuring that a defendant will appear for trial.”).

³⁵ See *Gideon v. Wainwright*, 372 U.S. 335, 83 S. Ct. 792, 9 L.Ed.2d 799 (1963); *Webb v. State*, 533 S.W.2d 780 (Tex. Crim. App. 1976).

³⁶ U.S. CONST. amend VI.

him.”³⁷ So well-established is this rule that nearly 100 years ago, the Court stated, “It is hardly necessary to say that, the right to counsel being conceded, a defendant should be afforded a fair opportunity to secure counsel of his own choice.”³⁸ Each one of these defendants were expecting to be afforded the opportunity to request counsel to be appointed to represent them or the opportunity to retain their own counsel. Every time, they were denied that opportunity before Judge Franklin acted on their case.

Finally, although the Rules of Evidence do not apply in a number of enumerated circumstances, including in habeas proceedings and proceedings to reduce bond, Rule 101(e)(3)(C) specifically makes an exception to the exception in a “bail proceeding” to revoke and increase bail.³⁹ As such, it was incumbent upon Judge Franklin to consider and apply the rules. By all accounts, that is not what happened. Every time, the prosecutor would simply read a probable cause statement, that is, inadmissible hearsay.⁴⁰ And yet, Judge Franklin would use this inadmissible evidence to revoke the defendant’s bond and, not just increase, but deny each defendant bail.

³⁷ *United States v. Gonzalez-Lopez*, 548 U.S. 140, 144, 126 S. Ct. 2557, 2561, 165 L. Ed. 2d 409 (2006) (citing *Wheat v. United States*, 486 U.S. 153, 159, 108 S. Ct. 1692, 100 L.Ed.2d 140 (1988)).

³⁸ *Powell v. Alabama*, 287 U.S. 45, 53, 53 S. Ct. 55, 77 L. Ed. 158 (1932).

³⁹ See TEX. R. EVID. 101(e)(3)(C); *Ex parte Graves*, 853 S.W.2d 701, 703–04 (Tex. App.—Houston [1st Dist.] 1993, pet. ref’d).

⁴⁰ See *Dawson v. State*, 477 S.W.2d 277, 279–80 (Tex. Crim. App. 1972); *Hill v. State*, 832 S.W.2d 724, 726 (Tex. App.—Houston [1st Dist.] 1992, no pet.).

Judge Franklin’s repeated denials of due process, one of the most “fundamental” of our constitutional rights, only magnifies the gravity of her actions. Her actions violated her obligation to “comply with the law and . . . act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” and “accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law” as required by Canons 2A and 3B(8) of the Code of Judicial Conduct.

SUPPORTING EVIDENCE

Attached to this complaint are the exhibits described herein to lend support the facts set forth including:

- Affidavit of David Cunningham, an attorney who was present in the 338th District Court on the morning of August 10, 2020 and personally witnessed Judge Franklin present by Zoom call Defendant Brian Smith up to appear before her without an attorney and then revoke his bond, set his bail at “no bond,” and order that he be taken into custody.
- Affidavit of Defendant Brian Smith describing Judge Franklin’s action taken against him on August 10, 2020.
- Copies of filings with the District Clerk reflecting the actions taken by Judge Franklin against the defendants.

CONCLUSION

This Commission must take immediate, appropriate action to stop Judge Franklin's illegal actions and send a clear message to other judges in the county and around the State who continually disregard the law regarding bail for criminal defendants. Judge Franklin has engaged in this behavior now for too long and continues to blatantly ignore the law. Furthermore, she has set an example for other district court judges in Harris County, some of whom our organizations' members have observed engaging in the same, unlawful conduct (and who are being investigated and considered for their own respective complaints). "If Judge Franklin is doing it, then I guess I can to" appears to be a mantra accepted by some in our judiciary.

It also stands to be considered that the legal remedy for correcting this judicial misbehavior is an imperfect one. In many of these cases, when a defendant challenges the unconstitutional and illegal revocation of bond and denial of bail, like Tomas Larry Martinez, judges like Judge Franklin will "remedy" their unconstitutional act by setting a new bail amount at a later date and think "no harm, no foul." This blatantly overlooks the fact that a defendant like Martinez has sat in custody denied bail for over a week, potentially losing their jobs, income, and ability to support others, and then have to pay more money on top of what they initially paid to secure their release. In addition to the typical concerns brought about by unlawful confinement, these defendants were each

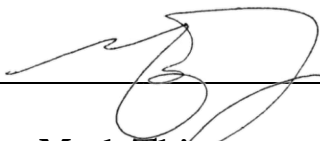
forced back into custody in a jail struggling to deal with pandemic conditions and exposure to COVID-19 that is almost impossible to contain in jail circumstances.⁴¹

Even worse, for others like Joseph Gomez, they may not be as fortunate to have a new bail amount set that they can afford. Some have spent all their funds to pay for the first bond that is then illegally revoked by judges like Judge Franklin and therefore cannot afford to pay a second bail amount (if one is set). As such, they are forced to sit in custody for months while an application for writ of habeas corpus is filed and then appealed to the court of appeals. It cannot be overlooked that Gomez had to sit in jail for 269 days as a result of Judge Franklin's unlawful action before the court of appeals corrected her and released Gomez on his original bonds. The need to act is immediate.

HCCLA and TCDLA respectfully requests this Commission to find that Judge Franklin violated the Canons of the Code of Judicial Conduct as set out herein and take appropriate action against her as authorized by its authority under Article V, Section 1-a of the Texas Constitution.

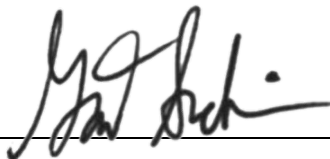
⁴¹ See "Harris County Jail faces a new threat: Inmates who caught COVID on the outside," by Zach Despart, Houston Chronicle, July 29, 2020 <available at www.houstonchronicle.com/news/Houston-texas/Houston/article/Harris-County-Jail-outbreak-faces-new-threat-15441206.php> (last visited August 8, 2020).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark Thiessen', is positioned above a horizontal line.

Mark Thiessen

President, Harris County Criminal Lawyers Association
on behalf of the
Harris County Criminal Lawyers Association
P.O. Box 924523
Houston, TX 77292-4523
(713) 227-2404

A handwritten signature in black ink, appearing to read 'Grant Scheiner', is positioned above a horizontal line.

Grant Scheiner

President, Texas Criminal Defense Lawyers Association
on behalf of the
Texas Criminal Defense Lawyers Association
6808 Hill Meadow Drive
Austin, TX 78736
(512) 478-2514

Exhibit A

Case Filings in the case, *State of Texas v. Kiara Bennett*

Case no. 1685299 in the 338th District Court of Harris County, Texas

including

- the felony complaint
- the statutory warnings by magistrate - probable cause for further detention – PR bond/bail order
- the court directive, revoking the defendant's bond, remanding them to the custody of the sheriff, and setting the new bond at \$0.

338 pend

THE STATE OF TEXAS
VS.
KIARA BENNETT
6307 SPRIGG ST
FULSHEAR, TX 77441

SPN: 03053384
DOB: B F 01/04/2001
DATE PREPARED: 8/8/2020

D.A. LOG NUMBER: 2662375
CJIS TRACKING NO.: 9268125668A001
BY: ZG DA NO: 2620288
AGENCY:SHF
O/R NO: 200802579
ARREST DATE: 08/07/2020

NCIC CODE: 1399 23

RELATED CASES:

FELONY CHARGE: Assault

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1685299
338

COURT ORDERED BAIL: REFERRED TO
(15.17)
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **KIARA BENNETT**, hereafter styled the Defendant, heretofore on or about **August 7, 2020**, did then and there unlawfully, intentionally and knowingly cause bodily injury to K. Carter, hereinafter called the Complainant, a peace officer, by striking the Complainant with her foot , and at the time of the assault the defendant knew the complainant was a peace officer lawfully discharging an official duty.

FILED
Marilyn Burgess
District Clerk

AUG 08 2020

Time: 1400
Harris County, Texas
By: [Signature]
Deputy

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on August 08, 2020

[Signature]

AFFIANT

Duly attested by me on August 08, 2020

[Signature]

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. 00792733

COMPLAINT

CAUSE NO. 168529901010SPN: 03053384DATE/TIME OF ARREST: 8/7/2020 10:00 PM

THE STATE OF TEXAS

v.

BENNETT, KIARADOB: January 4, 2001§ IN THE 338th DISTRICT COURT

§

§ HARRIS COUNTY, TEXAS**STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION – PR BOND/BAIL ORDER**

On this date and time the above-named defendant personally appeared before me, the undersigned Texas magistrate. The defendant appeared ☒ **in person** ☐ **by video teleconference** and I admonished the defendant as follows:

You are accused of 2ND DEGREE FELONY, namely, ASSAULT PEACE OFFICER/JUDGE.

- You have the right to hire an attorney to represent you.
- You have the right to remain silent.
- You have the right to have an attorney present prior to and during any interview with peace officers or attorneys representing the state.
- You have the right to stop any interview at any time.
- You have the right to an examining trial in a felony offense.
- You are not required to make a statement and any statement you make can be used against you.
- You have the right to request the appointment of counsel if you cannot afford counsel.

If you consent, I can appoint the Public Defender to represent you and describe evidence on your behalf in this bail hearing regardless of whether you are indigent. If you request appointed counsel and are later found to be indigent, another lawyer would be appointed to represent you in any trial or plea on the charge(s) listed above.

Do you consent to allow an assistant public defender to represent you in this bail hearing, knowing that this lawyer will not continue to represent you when this hearing is over? ☐ NO ☒ YES— Pursuant to Joint Administrative Order No. 2017-01, Assistant

Public Defender Henderson, Chris

(print name) represented the Defendant in this bail hearing.

Do you request the appointment of counsel to represent you in the county or district court if you are determined to be indigent?

☐ NO ☒ YES— The Court **ORDERS** Pretrial Services to help the defendant, if still in custody, prepare the request and any supporting paperwork, and then forward the request to the judge of the court in which the case is pending within 24 hours.

CONSULAR NOTIFICATION: If you are a foreign national, you may be entitled to have us notify your country's consular representative here in the United States. If your country requires notification, we will notify it as soon as possible.

The accused is a: ☒ United States citizen ☐ foreign national of (country).

☐ The accused requests notification of consular officials.

☐ **MANDATORY NOTIFICATION:** The clerk shall immediately alert the above country's consulate of this arrest.

If you are a foreign national, please provide the following information:

Name (father's last / mother's last / first)

Date of Birth

Place of Birth

Passport Number

Date Issued

Place Issued

PROBABLE CAUSE FINDING AND ORDER

- ☐ The Court **FINDS** that probable cause for further detention **DOES NOT EXIST**. The Court **ORDERS** the law enforcement agency and officer having custody of the defendant to immediately release the defendant from custody.
- ☒ The Court **FINDS** that probable cause for further detention **EXISTS**. The Court reviewed and/or set the defendant's bond as indicated in the BAIL ORDER below and, in clear and unambiguous language: (1) advised the defendant of his rights pursuant to TEX. CODE CRIM. P. Art. 15.17; and (2) provided the defendant with information required by law. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.
- ☐ Probable cause previously determined. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.

☒ **SEE NEXT PAGE FOR BAIL ORDER**

August 09, 2020 2:05 AM

Date and Time

Magistrate Eva Flores (SPN 02328033)

Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 1 of 2

Page 2 of 2

CAUSE NO. **168529901010**

THE STATE OF TEXAS

V.

BENNETT, KIARA

A/K/A :

§
§
§
§
§
§
§IN THE 338th DISTRICT
COURT
HARRIS COUNTY, TEXAS**COURT DIRECTIVE: REMAND DEFENDANT TO CUSTODY**

BY THE ORDER OF THE COURT, the following activity is directed in the above styled and numbered cause:

- ☒ Bond REVOKED. New bond set at \$0.
Defendant remanded to the custody of the sheriff.
- ☐ MOTION TO ADJUDICATE GUILT filed.
Bond set at \$. Defendant remanded to the custody of the sheriff.
- ☐ Defendant found guilty. No bond set. Defendant remanded to the sheriff.
- ☐ Defendant remanded to custody by order of the court.
- ☐ Defendant to serve jail time in lieu of payment until court costs and/or fine is satisfied.
- ☐

Witness my Hand and Seal of Office at Houston, Texas, on **08/10/2020**.MARILYN BURGESS,
District Clerk, Harris County, Texas

By Deputy A GUZMAN DELGADO

SHERIFF'S RETURNReceived this Writ on _____ at _____ o'clock AM/PM, and executed the same on _____ by placing the above named defendant in the Harris County Jail.

Sheriff, Harris County Texas

By _____, HCSO Deputy

Exhibit B

Case Filings in the case, *State of Texas v. Brian Smith*

Case no. 1685356 in the 338th District Court of Harris County, Texas

including

- the felony complaint
- the statutory warnings by magistrate - probable cause for further detention – PR bond/bail order
- the court directive, revoking the defendant's bond, remanding them to the custody of the sheriff, and setting the new bond at \$0.

THE STATE OF TEXAS
VS.
BRIAN SMITH
13101 BRIAR FOREST DRIVE #6505
HOUSTON, TX 77077

SPN: 02830114 02830114
DOB: W M 11/04/1994
DATE PREPARED: 8/8/2020

D.A. LOG NUMBER: 2662456
CJIS TRACKING NO.: 9268126060-A001
BY: EMG DA NO: 50792733
AGENCY: HPD
O/R NO: 104229720
ARREST DATE: 08/08/2020

NCIC CODE: 1314 08

RELATED CASES:

FELONY CHARGE: **Assault of Family Member -Impeding Breathing**

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1685356
338

COURT ORDERED BAIL: **SREFERRED TO**
15.17
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **BRIAN SMITH**, hereafter styled the Defendant, heretofore on or about **August 8, 2020**, did then and there unlawfully, intentionally and knowingly cause bodily injury to Barron Brooks, hereafter styled the Complainant, a member of the Defendant's household and a person with whom the Defendant had a dating relationship, by impeding the normal breathing and circulation of the blood of the Complainant by applying pressure to the Complainant's throat.

FILED

Marilyn Burgess
District Clerk

AUG 09 2020

Time: _____
Harris County, Texas
By _____
Deputy

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on August 08, 2020



AFFIANT

Duly attested by me on August 08, 2020



ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. 14088250

COMPLAINT

CAUSE NO. 168535601010SPN: 02830114DATE/TIME OF ARREST: 8/8/2020 10:00 AM

THE STATE OF TEXAS

§ IN THE 338th DISTRICT COURT

v.

§

SMITH, BRIAN

§

HARRIS COUNTY, TEXASDOB: November 4, 1994**STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION – PR BOND/BAIL ORDER**

On this date and time the above-named defendant personally appeared before me, the undersigned Texas magistrate. The defendant appeared ☒ **in person** ☐ **by video teleconference** and I admonished the defendant as follows:

You are accused of 3RD DEGREE FELONY, namely, ASLT FAM/HOUSE MEM IMPED BRTH/CIRCU.

- You have the right to hire an attorney to represent you.
- You have the right to remain silent.
- You have the right to have an attorney present prior to and during any interview with peace officers or attorneys representing the state.
- You have the right to stop any interview at any time.
- You have the right to an examining trial in a felony offense.
- You are not required to make a statement and any statement you make can be used against you.
- You have the right to request the appointment of counsel if you cannot afford counsel.

If you consent, I can appoint the Public Defender to represent you and describe evidence on your behalf in this bail hearing regardless of whether you are indigent. If you request appointed counsel and are later found to be indigent, another lawyer would be appointed to represent you in any trial or plea on the charge(s) listed above.

Do you consent to allow an assistant public defender to represent you in this bail hearing, knowing that this lawyer will not continue to represent you when this hearing is over? ☐ NO ☒ YES— Pursuant to Joint Administrative Order No. 2017-01, Assistant

Public Defender Toledo, Dulce

(print name) represented the Defendant in this bail hearing.

Do you request the appointment of counsel to represent you in the county or district court if you are determined to be indigent?

☐ NO ☒ YES— The Court **ORDERS** Pretrial Services to help the defendant, if still in custody, prepare the request and any supporting paperwork, and then forward the request to the judge of the court in which the case is pending within 24 hours.

CONSULAR NOTIFICATION: If you are a foreign national, you may be entitled to have us notify your country's consular representative here in the United States. If your country requires notification, we will notify it as soon as possible.

The accused is a: ☒ United States citizen ☐ foreign national of (country).

☐ The accused requests notification of consular officials.

☐ **MANDATORY NOTIFICATION:** The clerk shall immediately alert the above country's consulate of this arrest.

If you are a foreign national, please provide the following information:

Name (father's last / mother's last / first)

Date of Birth

Place of Birth

Passport Number

Date Issued

Place Issued

PROBABLE CAUSE FINDING AND ORDER

- ☐ The Court **FINDS** that probable cause for further detention **DOES NOT EXIST**. The Court **ORDERS** the law enforcement agency and officer having custody of the defendant to immediately release the defendant from custody.
- ☒ The Court **FINDS** that probable cause for further detention **EXISTS**. The Court reviewed and/or set the defendant's bond as indicated in the BAIL ORDER below and, in clear and unambiguous language: (1) advised the defendant of his rights pursuant to TEX. CODE CRIM. P. Art. 15.17; and (2) provided the defendant with information required by law. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.
- ☐ Probable cause previously determined. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.

☒ **SEE NEXT PAGE FOR BAIL ORDER**

August 09, 2020 10:58 AM

Date and Time

Magistrate Lisa Porter (SPN 01676089)

Lisa Porter 1676089

Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 1 of 2

Lucretia B. 1676089

August 09, 2020 10:58 AM

Date and Time

Magistrate Lisa Porter (SPN 01676089)

Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 2 of 2

Unofficial Copy Office of Marilyn Burgess District Clerk

CAUSE NO. **168535601010**

THE STATE OF TEXAS

V.

SMITH, BRIAN

A/K/A : SMITH, BRIAN

§
§
§
§
§
§
§IN THE 338th DISTRICT
COURT
HARRIS COUNTY, TEXAS**COURT DIRECTIVE: REMAND DEFENDANT TO CUSTODY**

BY THE ORDER OF THE COURT, the following activity is directed in the above styled and numbered cause:

- ☒ Bond REVOKED. New bond set at \$0.
Defendant remanded to the custody of the sheriff.
- ☐ MOTION TO ADJUDICATE GUILT filed.
Bond set at \$. Defendant remanded to the custody of the sheriff.
- ☐ Defendant found guilty. No bond set. Defendant remanded to the sheriff.
- ☐ Defendant remanded to custody by order of the court.
- ☐ Defendant to serve jail time in lieu of payment until court costs and/or fine is satisfied.
- ☐

Witness my Hand and Seal of Office at Houston, Texas, on **08/10/2020**.MARILYN BURGESS,
District Clerk, Harris County, Texas

By Deputy A GUZMAN DELGADO

SHERIFF'S RETURNReceived this Writ on _____ at _____ o'clock AM/PM, and executed the same on _____ by placing the above named defendant in the Harris County Jail.

Sheriff, Harris County Texas

By _____, HCSO Deputy

Exhibit C

Affidavit of the Brian Smith, Defendant in the case, *State of Texas v. Brian Smith*
Case no. 1685356 in the 338th District Court of Harris County, Texas

STATE OF TEXAS

§

HARRIS COUNTY

§

§

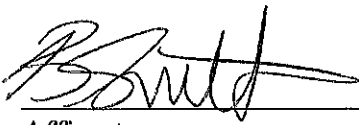
AFFIDAVIT

Before me, the undersigned authority, personally appeared **BRIAN SMITH** who being by me duly sworn, deposed as follows:

“My name is **BRIAN SMITH**. I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

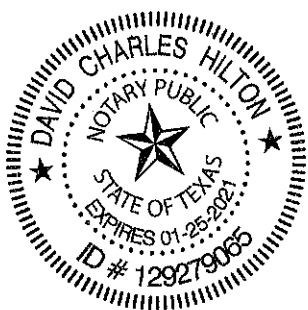
I am the defendant charged in cause number 1685356 pending in the 338th District Court of Harris County, Texas. On August 8, 2020, I was arrested and charged with the felony offense of assault family member choking. On August 9, 2020, I appeared before a Harris County criminal law hearing officer along with an appointed public defender assigned to represent me for that hearing. The officer set my bail amount at \$15,000.00 and further granted my release on personal bond which I signed. I was released from the Harris County Jail later that day and given instructions to appear in the 338th District Court the following morning. I did in fact appeared on Monday, August 10, 2020 and intended to ask the court for time to hire an attorney. The judge, Judge Ramona Franklin, appeared by Zoom and called me to approach the monitor. She asked the prosecutor to give her a summary of my case. She then ordered me to have no contact with the alleged victim. Then, to my surprise, the judge stated that she was revoking my bond, taking me back into custody, and setting my bail amount at \$0. My family hired Dustan Neyland to represent me after

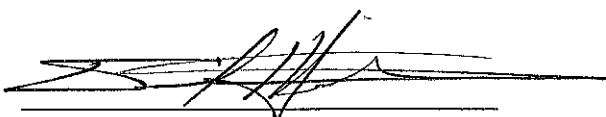
this. He was able to go in front of a visiting judge the following day and get my bail amount set at \$5,000.00 which my family posted. I was subsequently released from jail.



Affiant

Sworn to and subscribed before me on the 18th day of August,
2020.





Notary Public

Exhibit D

Affidavit of David Cunningham

AFFIDAVIT OF DAVID CUNNINGHAM

Before me, the undersigned authority, on this day personally appeared David Cunningham who did depose and state as follows:

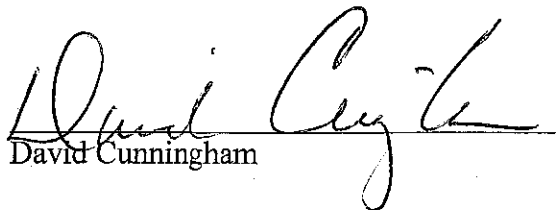
My name is David Cunningham. I am over the age of eighteen and there is no legal impediment to making this affidavit and I do so with knowledge of the pains and penalties of perjury.

I am a lawyer licensed to practice law in the State of Texas. I have been so licensed since November 5, 1982. My State Bar number is 05234400. My office address is 2814 Hamilton, Houston, Texas 77004-1232. My office number is 713.225.0325 and my email address is Cunningham709@yahoo.com.

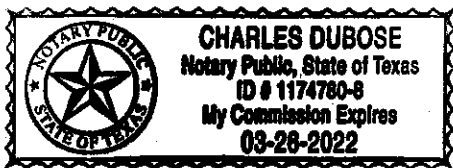
I am making this affidavit because I have personal knowledge of the events that happened in the 338th Judicial District Court of Harris County, Texas on August 10, 2020. On that morning, I appeared in person with my client in Cause No. 1672362. Judge Franklin called our case and dealt with the bond matters related to Cause No. 1672362. My client, who had an open warrant, was then taken into custody and taken to the holdover. I remained in the courtroom.

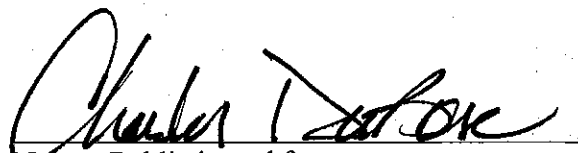
After dealing with my case, the Court called the case of Brian Smith. Mr. Smith was in the hallway and the bailiff brought him before the Court. I remember Mr. Smith saying something about "his" or "a" lawyer as the bailiff positioned him so that the Court see him via Zoom. The Court in turn said something about an appointed lawyer, but I did not catch her complete comment regarding counsel. While I was present in the court at counsel table, Judge Franklin revoked Mr. Smith's personal bond and raised the case to no bond and remanded him to custody. Mr. Smith was then taken directly into custody. I remember scratching my head, questioning whether her actions complied with **Ex Parte Gomez** an opinion that had been handed down by the Court of Appeals the previous Friday. On August 10, 2010, I had not read **Gomez**, but was generally aware of the gist of the opinion dealing with Judge Franklin's practices regarding revoking bonds previously set by hearing officers/magistrates. **Gomez** had been the subject of discussion on the members listserv of the Harris County Criminal Lawyers Association (HCCLA) after the opinion came out on August 7, 2020.

I went into the back to talk to my client who was in the holdover cell. Mr. Smith was also in the holdover. He appeared to be confused about what happened and was attempting to contact family members to advise him of his situation.


David Cunningham

Sworn and subscribed to before me on this 20th day of August 2020 to certify which witness my seal and signature.




Notary Public in and for
Harris County, Texas

My commission expires:

Exhibit E

Case Filings in the case, *State of Texas v. Tomas Lara Martinez*,
Case no. 1685375 in the 338th District Court of Harris County, Texas

including

- the felony complaint (with bail amount set thereupon at \$25,000)
- the court directive, revoking the defendant's bond, remanding them to the custody of the sheriff, and setting the new bond at \$0.

THE STATE OF TEXAS
VS.
TOMAS LARA MARTINEZ
7816 NARCISSUS ST
HOUSTON, TX 770123642

SPN: 00703484
DOB: W M 10/03/1966
DATE PREPARED: 8/9/2020

D.A. LOG NUMBER: 2662556
CJIS TRACKING NO.: 9268126869A001
BY: BL DA NO: 2850257
AGENCY: HPD
O/R NO: 104413120
ARREST DATE: 08/08/2020

NCIC CODE: 5404 08

RELATED CASES:

FELONY CHARGE: **DRIVING WHILE INTOXICATED**

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO: 1685375
FIRST SETTING DATE: 338

COURT ORDERED BAIL: \$25000
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **TOMAS LARA MARTINEZ**, hereafter styled the Defendant, heretofore on or about **August 8, 2020**, did then and there unlawfully, operate a motor vehicle in a public place while intoxicated.

It is further presented that before the commission of the offense alleged above, on October 13, 1989, the Defendant was convicted of the offense of driving while intoxicated in Cause No. 8930396 in County Criminal Court at Law No. 5, Harris County, Texas.

It is further presented that before the commission of the offense alleged above, on August 25, 2010, the Defendant was convicted of the offense of driving while intoxicated in Cause No. 1699219 in County Criminal Court at Law No. 14, Harris County, Texas.

FILED

Marilyn Burgess
District Clerk

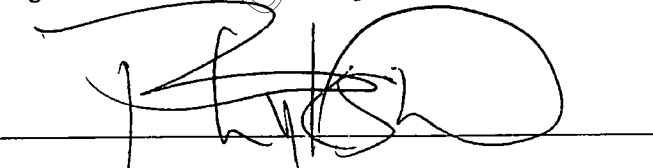
AUG 09 2020

Time: 0719
Harris County, Texas

By EF
Deputy

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on August 09, 2020



AFFIANT

Duly attested by me on August 09, 2020


SBOT# 24068895

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No.

COMPLAINT

CAUSE NO. **168537501010**

THE STATE OF TEXAS

V.

MARTINEZ, TOMAS LARRY

A/K/A : MARTINEZ, TOMAS LARRY AKA
ORTIZ, RAMON GARZA§
§
§
§
§
§
§IN THE 338th DISTRICT
COURT
HARRIS COUNTY, TEXAS**COURT DIRECTIVE: REMAND DEFENDANT TO CUSTODY**

BY THE ORDER OF THE COURT, the following activity is directed in the above styled and numbered cause:

- ☒ Bond REVOKED. New bond set at \$0.
Defendant remanded to the custody of the sheriff.
- ☐ MOTION TO ADJUDICATE GUILT filed.
Bond set at \$. Defendant remanded to the custody of the sheriff.
- ☐ Defendant found guilty. No bond set. Defendant remanded to the sheriff.
- ☐ Defendant remanded to custody by order of the court.
- ☐ Defendant to serve jail time in lieu of payment until court costs and/or fine is satisfied.
- ☐

Witness my Hand and Seal of Office at Houston, Texas, on **08/10/2020**.MARILYN BURGESS,
District Clerk, Harris County, Texas

By Deputy A GUZMAN DELGADO

SHERIFF'S RETURNReceived this Writ on _____ at _____ o'clock AM/PM, and executed the same on _____ by placing the above named defendant in the Harris County Jail.

Sheriff, Harris County Texas

By _____, HCSO Deputy

Exhibit F

Affidavit of the Tomas Martinez, Defendant in the case, *State of Texas v. Tomas Martinez*,

Case no. 1685375 in the 338th District Court of Harris County, Texas

(to be submitted at a later date)

Exhibit G

Case Filings in the case, *State of Texas v. Joseph Rene Gonzales*

Case no. 1685006 in the 338th District Court of Harris County, Texas

including

- the felony complaint
- the statutory warnings by magistrate - probable cause for further detention – PR bond/bail order
- the court directive setting the new bond at \$0 “PER JUDGE FRANKLIN”

THE STATE OF TEXAS
VS.
JOSEPH RENE GONZALES
3720 CREEKMONT
HOUSTON, TX 77091

02508349

SPN: **02508349**
DOB: **P M 12/02/1992**
DATE PREPARED: **8/6/2020**

D.A. LOG NUMBER: **2661796**
CJIS TRACKING NO.: **9268120321A001**
BY: **RH DA NO: 2963459**
AGENCY: **HPD**
O/R NO: **103056720**
ARREST DATE: **08/05/2020**

NCIC CODE: **1399 09**

RELATED CASES:

FELONY CHARGE: **Assault - Family Violence - 2nd Offender**

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1685006
338

COURT ORDERED BAIL: **REFERRED TO**
(15.17)
PRIOR CAUSE NO:
CHARGE SEQ NUM: **1**

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **JOSEPH RENE GONZALES**, hereafter styled the Defendant, heretofore on or about **August 5, 2020**, did then and there unlawfully, intentionally and knowingly cause bodily injury to Jose DeLaFuente, hereafter styled the Complainant, a member of the Defendant's family, by striking the Complainant the Complainant with a foreign object.

It is further presented that in Harris County, Texas, Joseph Rene Gonzalez, hereafter styled the Defendant, heretofore on or about August 5, 2020, did then and there unlawfully, intentionally and knowingly cause bodily injury to Jose DeLaFuente, hereafter styled the Complainant, a member of the Defendant's family, by striking the Complainant with his hand.

It is further presented that before the commission alleged above, the Defendant, on August 18, 2016, in the County Criminal Court at Law No. 1 of Harris County, Texas, in Cause No. 2103477, was convicted of Assault of a Family Member which was committed against a member of the Defendant's family.

Before the commission of the offense alleged above, on May 26, 2017, in Cause No. 152337, in the 184th District Court of Harris County, Texas, the Defendant was convicted of the felony offense of Aggravated Assault of a Family Member.

FILED
Marilyn Burgess
District Clerk

AUG 06 2020

Time: 1:00
Harris County, Texas
By: UB
Deputy

AGAINST THE PEACE AND DIGNITY OF THE STATE.Signed and sworn by me on August 06, 2020Duly attested by me on August 06, 2020

AFFIANT

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. **24050254**

COMPLAINT

CAUSE NO. 168500601010SPN: 02508349DATE/TIME OF ARREST: 8/5/2020 06:48 PM

THE STATE OF TEXAS

§ IN THE 338th DISTRICT COURT

v.

§

GONZALES, JOSEPH RENE

§

HARRIS COUNTY, TEXASDOB: December 2, 1992**STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION – PR BOND/BAIL ORDER**

On this date and time the above-named defendant personally appeared before me, the undersigned Texas magistrate. The defendant appeared ☒ **in person** ☐ **by video teleconference** and I admonished the defendant as follows:

You are accused of 3RD DEGREE FELONY, namely, ASSLT FAM/HOUSEHOLD MEM W/PREV CONV.

- You have the right to hire an attorney to represent you.
- You have the right to remain silent.
- You have the right to have an attorney present prior to and during any interview with peace officers or attorneys representing the state.
- You have the right to stop any interview at any time.
- You have the right to an examining trial in a felony offense.
- You are not required to make a statement and any statement you make can be used against you.
- You have the right to request the appointment of counsel if you cannot afford counsel.

If you consent, I can appoint the Public Defender to represent you and describe evidence on your behalf in this bail hearing regardless of whether you are indigent. If you request appointed counsel and are later found to be indigent, another lawyer would be appointed to represent you in any trial or plea on the charge(s) listed above.

Do you consent to allow an assistant public defender to represent you in this bail hearing, knowing that this lawyer will not continue to represent you when this hearing is over? ☐ NO ☒ YES— Pursuant to Joint Administrative Order No. 2017-01, Assistant

Public Defender Jones, Mandy

(print name) represented the Defendant in this bail hearing.

Do you request the appointment of counsel to represent you in the county or district court if you are determined to be indigent?

☐ NO ☒ YES— The Court **ORDERS** Pretrial Services to help the defendant, if still in custody, prepare the request and any supporting paperwork, and then forward the request to the judge of the court in which the case is pending within 24 hours.

CONSULAR NOTIFICATION: If you are a foreign national, you may be entitled to have us notify your country's consular representative here in the United States. If your country requires notification, we will notify it as soon as possible.

The accused is a: ☒ United States citizen ☐ foreign national of (country).

☐ The accused requests notification of consular officials.

☐ **MANDATORY NOTIFICATION:** The clerk shall immediately alert the above country's consulate of this arrest.

If you are a foreign national, please provide the following information:

Name (father's last / mother's last / first)

Date of Birth

Place of Birth

Passport Number

Date Issued

Place Issued

PROBABLE CAUSE FINDING AND ORDER

- ☐ The Court **FINDS** that probable cause for further detention **DOES NOT EXIST**. The Court **ORDERS** the law enforcement agency and officer having custody of the defendant to immediately release the defendant from custody.
- ☒ The Court **FINDS** that probable cause for further detention **EXISTS**. The Court reviewed and/or set the defendant's bond as indicated in the BAIL ORDER below and, in clear and unambiguous language: (1) advised the defendant of his rights pursuant to TEX. CODE CRIM. P. Art. 15.17; and (2) provided the defendant with information required by law. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.
- ☐ Probable cause previously determined. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.

☒ **SEE NEXT PAGE FOR BAIL ORDER**

August 06, 2020 22:58 PM

Date and Time

Magistrate Jennifer Gaut (SPN 02462297)

Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 1 of 2

STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION - PR BOND/BAIL ORDER

PERSONAL BOND / BAIL ORDER

Having found probable cause exists for the further detention of GONZALES, JOSEPH RENE, the Court next determined the conditions of release for the accused to ensure he/she will appear and answer before the proper Court.

PART 1: PUBLIC SAFETY ASSESSMENT

The Court considered the Public Safety Assessment results and also considered the following presumptive personal bond recommendation:

- ☐ Personal Bond Recommended
☐ Personal Bond **NOT** Recommended
☒ Personal Bond Recommendation referred to Magistrate
☐ PSA NOT available

PART 2: PERSONAL BOND / BAIL REQUESTS

Presumptive Bail Amount \$888,888.00

A. DISTRICT ATTORNEY PR BOND / BAIL REQUEST

- Personal Bond ☐ Requested ☒ Opposed
☐ No Position
- Bail Request ☐ No DA Bail Request
☐ Higher _____
☒ Lower \$50,000.00
☐ No Bail

B. PUBLIC DEFENDER PR BOND / BAIL REQUEST

- Personal Bond ☒ Requested ☐ Opposed
☐ No Position
- Bail Request ☐ No PD Bail Request
☐ Higher _____
☒ Lower \$5,000.00
☐ No Bail

PART 3: FINANCIAL AFFIDAVIT

Signed and Sworn: ☒ Yes
☐ No

ORDER

After considering the above, the Court (1) advised the defendant of his rights pursuant to TEX.CODE CRIM.P. ART 15.17; (2) set the defendant's conditions of release in clear and unambiguous language; and (3) provided the defendant with information required by law. The Court then ORDERED the following:

Bail is set at: ☐ No Bail ☒ \$25,000.00
☐ Conditions

Personal bond is: ☒ Not Approved CW is Def's Father. Def appears to have 16.22 / IDD issues. Def scores 4/2 (ave risk) on PSA - no pending charges, no FTA, yes to prior misd / felony / violent [3] conv. Def has prior assaultive convictions. Def is 27 yrs of age, has lived into Houston entire life. MOEP issued.
☐ Approved ☐ Conditions

The reasons for this individual assessment of the appropriate conditions of release were explained to the above-named Defendant.

August 06, 2020 22:58 PM

Date and Time

Magistrate Jennifer Gaut (SPN 02462297)

Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 2 of 2

COURT DIRECTIVE C87 / BOND SET/MODIFICATION

CAUSE NO. 168500601010

T H E S T A T E O F T E X A S

IN THE 338th DISTRICT COURT

VS.

GONZALES, JOSEPH RENE

OF HARRIS COUNTY, TEXAS

OFFENSE: ASSLT FAM/HOUSEHOLD MEM W/PREV CONV

TO THE SHERIFF OF HARRIS COUNTY, TEXAS: GREETINGS

BY ORDER OF THE COURT ON August 10, 2020, A.D. THE FOLLOWING ACTION IS DIRECTED
IN THE ABOVE STYLED AND NUMBERED CAUSE:

BOND SET TO \$0

YES THE COURT HAS ORDERED THE FOLLOWING BAIL OPTIONS:PER JUDGE FRANKLIN

CONDITIONS OF BOND: Please select

BAIL SET AS TO WITNESS ONLY: SPN: NAME:

NOTES TO SHERIFF: BOND SET TO \$0

WITNESS MY HAND AND SEAL OF OFFICE AT HOUSTON, TEXAS, THIS August 10, 2020 14:29 PM

Marilyn Burgess, DISTRICT CLERK

HARRIS COUNTY, TEXAS

BY: 

A GUZMAN DELGADO

SNU: 997

BOND SET

Unofficial Copy Office of Marilyn Burgess District Clerk

Exhibit H

Case Filings in the case, *State of Texas v. Franciso Sanmiguel Garza*
Case no. 1685502 in the 338th District Court of Harris County, Texas

including

- the felony complaint
- the statutory warnings by magistrate - probable cause for further detention – PR bond/bail order
- the court directive, revoking the defendant's bond, remanding them to the custody of the sheriff, and setting the new bond at \$0.

507

338

THE STATE OF TEXAS
VS.

FRANCISCO SANMIGUEL GARZA
450 E ROGERS ST, APT #2311
HOUSTON, TX 77022

SPN: 02316455
DOB: W M 04/27/1990
DATE PREPARED: 8/10/2020

D.A. LOG NUMBER: 2662828
CJIS TRACKING NO.: 9268129183A001
BY: EH DA NO: 2620288
AGENCY:HPD
O/R NO: 104924820
ARREST DATE: 08/09/2020

NCIC CODE: 1314 08

RELATED CASES:

FELONY CHARGE: Assault of Family Member -Impeding Breathing

CAUSE NO:

HARRIS COUNTY DISTRICT COURT NO:

FIRST SETTING DATE:

1685502
338

COURT ORDERED BAIL: REFERRED TO
(15.17)
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **FRANCISCO SANMIGUEL GARZA**, hereafter styled the Defendant, heretofore on or about **August 9, 2020**, did then and there unlawfully, intentionally and knowingly cause bodily injury to Diana Benavidez, hereafter styled the Complainant, a person with whom the Defendant had a dating relationship, by impeding the normal breathing and circulation of the blood of the Complainant by applying pressure to the Complainant's throat and by applying pressure to the Complainant's neck.

FILED

Marilyn Burgess
District Clerk

AUG 10 2020

Time: 0850
Harris County, Texas
By bm
Deputy

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on August 10, 2020



AFFIANT

Duly attested by me on August 10, 2020



ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. 24013037

COMPLAINT

CAUSE NO. 168550201010SPN: 02316455DATE/TIME OF ARREST: 8/9/2020 11:40 PM

THE STATE OF TEXAS

§ IN THE 338th DISTRICT COURT

v.

§

GARZA, FRANCISCO SANMIGUEL

§

HARRIS COUNTY, TEXASDOB: April 27, 1990**STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION – PR BOND/BAIL ORDER**

On this date and time the above-named defendant personally appeared before me, the undersigned Texas magistrate. The defendant appeared ☒ **in person** ☐ **by video teleconference** and I admonished the defendant as follows:

You are accused of 3RD DEGREE FELONY, namely, ASLT FAM/HOUSE MEM IMPED BRTH/CIRCU.

- You have the right to hire an attorney to represent you.
- You have the right to remain silent.
- You have the right to have an attorney present prior to and during any interview with peace officers or attorneys representing the state.
- You have the right to stop any interview at any time.
- You have the right to an examining trial in a felony offense.
- You are not required to make a statement and any statement you make can be used against you.
- You have the right to request the appointment of counsel if you cannot afford counsel.

If you consent, I can appoint the Public Defender to represent you and describe evidence on your behalf in this bail hearing regardless of whether you are indigent. If you request appointed counsel and are later found to be indigent, another lawyer would be appointed to represent you in any trial or plea on the charge(s) listed above.

Do you consent to allow an assistant public defender to represent you in this bail hearing, knowing that this lawyer will not continue to represent you when this hearing is over? ☐ NO ☒ YES— Pursuant to Joint Administrative Order No. 2017-01, Assistant

Public Defender Hoang, Bao-Long

(print name) represented the Defendant in this bail hearing.

Do you request the appointment of counsel to represent you in the county or district court if you are determined to be indigent?

☐ NO ☒ YES— The Court **ORDERS** Pretrial Services to help the defendant, if still in custody, prepare the request and any supporting paperwork, and then forward the request to the judge of the court in which the case is pending within 24 hours.

CONSULAR NOTIFICATION: If you are a foreign national, you may be entitled to have us notify your country's consular representative here in the United States. If your country requires notification, we will notify it as soon as possible.

The accused is a: ☒ United States citizen ☐ foreign national of (country).

☐ The accused requests notification of consular officials.

☐ **MANDATORY NOTIFICATION:** The clerk shall immediately alert the above country's consulate of this arrest.

If you are a foreign national, please provide the following information:

Name (father's last / mother's last / first)

Date of Birth

Place of Birth

Passport Number

Date Issued

Place Issued

PROBABLE CAUSE FINDING AND ORDER

- ☐ The Court **FINDS** that probable cause for further detention **DOES NOT EXIST**. The Court **ORDERS** the law enforcement agency and officer having custody of the defendant to immediately release the defendant from custody.
- ☒ The Court **FINDS** that probable cause for further detention **EXISTS**. The Court reviewed and/or set the defendant's bond as indicated in the BAIL ORDER below and, in clear and unambiguous language: (1) advised the defendant of his rights pursuant to TEX. CODE CRIM. P. Art. 15.17; and (2) provided the defendant with information required by law. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.
- ☐ Probable cause previously determined. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.

☒ **SEE NEXT PAGE FOR BAIL ORDER**

August 10, 2020 14:35 PM

Date and Time

Magistrate jim callan (SPN 53651900)

Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 1 of 2

Page 2 of 2

CAUSE NO. **168550201010**

THE STATE OF TEXAS

V.

GARZA, FRANCISCO SANMIGUEL

A/K/A : GARZA, FRANCISCO SAN M AKA
GARZA, FRANCISCO SAN MIGU AKA
GARZA, FRANCISCO SAN MIGUEL II§
§
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§
§IN THE 338th DISTRICT
COURT
HARRIS COUNTY, TEXAS**COURT DIRECTIVE: REMAND DEFENDANT TO CUSTODY**

BY THE ORDER OF THE COURT, the following activity is directed in the above styled and numbered cause:

- ☒ Bond REVOKED. New bond set at \$0.
Defendant remanded to the custody of the sheriff.
- ☐ MOTION TO ADJUDICATE GUILT filed.
Bond set at \$. Defendant remanded to the custody of the sheriff.
- ☐ Defendant found guilty. No bond set. Defendant remanded to the sheriff.
- ☒ Defendant remanded to custody by order of the court.
- ☐ Defendant to serve jail time in lieu of payment until court costs and/or fine is satisfied.
- ☐

Witness my Hand and Seal of Office at Houston, Texas, on **08/11/2020**.MARILYN BURGESS,
District Clerk, Harris County, Texas*Felicia Ayala*

By Deputy F AYALA

SHERIFF'S RETURNReceived this Writ on _____ at _____ o'clock AM/PM, and executed the same on _____ by placing the above named defendant in the Harris County Jail.

Sheriff, Harris County Texas

By _____, HCSO Deputy

Exhibit I

Case Filings in the case, *State of Texas v. Moises Perales*

Case no. 1686092 in the 338th District Court of Harris County, Texas

including

- the felony complaint
- the statutory warnings by magistrate - probable cause for further detention – PR bond/bail order
- the court directive, revoking the defendant's bond, remanding them to the custody of the sheriff, and setting the new bond at \$0.

THE STATE OF TEXAS
VS.
MOISES PERALES
5112 MOHAWK ST
HOUSTON, TX 77093

01859590

SPN: 01859590
DOB: W M 05/10/1984
DATE PREPARED: 8/14/2020

D.A. LOG NUMBER: 2663739
CJIS TRACKING NO.: 9268136805A001
BY: MRM DA NO: 2533916
AGENCY:SHF
O/R NO: 200804844
ARREST DATE: 08/13/2020

NCIC CODE: 1399 09

RELATED CASES:

FELONY CHARGE: **Assault - Family Violence - 2nd Offender**

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1686092
338

COURT ORDERED BAIL: **REFERRED TO**
(15.17)
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **MOISES PERALES**, hereafter styled the Defendant, heretofore on or about **August 13, 2020**, did then and there unlawfully, intentionally and knowingly cause bodily injury to Cynthia Martin, hereafter styled the Complainant, a member of the Defendant's family and a person with whom the Defendant had a dating relationship, by grabbing the Complainant with hand.

It is further presented that before the commission alleged above, the Defendant, on March 3, 2005, in the District Court of Scott County, Iowa, in Cause No. 07821SRCR273340, was convicted of Domestic Abuse Assault which was committed against a member of the Defendant's family, a member of the Defendant's household and a person with whom the Defendant had a dating relationship.

FILED
Marilyn Burgess
District Clerk

AUG 14 2020

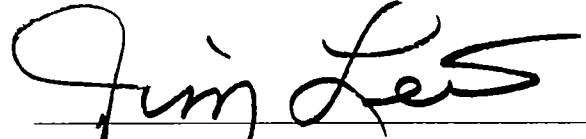
Time: _____
Harris County, Texas
By _____
Deputy

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on August 14, 2020


AFFIANT

Duly attested by me on August 14, 2020


ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. 12187900

COMPLAINT

CAUSE NO. 168609201010SPN: 01859590DATE/TIME OF ARREST: 8/13/2020 06:00 PM

THE STATE OF TEXAS

§ IN THE 338th DISTRICT COURT

v.

§

PERALES, MOISES

§

HARRIS COUNTY, TEXASDOB: May 10, 1984**STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION – PR BOND/BAIL ORDER**

On this date and time the above-named defendant personally appeared before me, the undersigned Texas magistrate. The defendant appeared ☒ **in person** ☐ **by video teleconference** and I admonished the defendant as follows:

You are accused of **3RD DEGREE FELONY**, namely, **ASSLT FAM/HOUSEHOLD MEM W/PREV CONV.**

- You have the right to hire an attorney to represent you.
- You have the right to remain silent.
- You have the right to have an attorney present prior to and during any interview with peace officers or attorneys representing the state.
- You have the right to stop any interview at any time.
- You have the right to an examining trial in a felony offense.
- You are not required to make a statement and any statement you make can be used against you.
- You have the right to request the appointment of counsel if you cannot afford counsel.

If you consent, I can appoint the Public Defender to represent you and describe evidence on your behalf in this bail hearing regardless of whether you are indigent. If you request appointed counsel and are later found to be indigent, another lawyer would be appointed to represent you in any trial or plea on the charge(s) listed above.

Do you consent to allow an assistant public defender to represent you in this bail hearing, knowing that this lawyer will not continue to represent you when this hearing is over? ☐ NO ☒ YES— Pursuant to Joint Administrative Order No. 2017-01, Assistant

Public Defender Hundemer, Robert

(print name) represented the Defendant in this bail hearing.

Do you request the appointment of counsel to represent you in the county or district court if you are determined to be indigent?

☐ NO ☒ YES— The Court **ORDERS** Pretrial Services to help the defendant, if still in custody, prepare the request and any supporting paperwork, and then forward the request to the judge of the court in which the case is pending within 24 hours.

CONSULAR NOTIFICATION: If you are a foreign national, you may be entitled to have us notify your country's consular representative here in the United States. If your country requires notification, we will notify it as soon as possible.

The accused is a: ☒ United States citizen ☐ foreign national of (country).

☐ The accused requests notification of consular officials.

☐ **MANDATORY NOTIFICATION:** The clerk shall immediately alert the above country's consulate of this arrest.

If you are a foreign national, please provide the following information:

Name (father's last / mother's last / first)

Date of Birth

Place of Birth

Passport Number

Date Issued

Place Issued

PROBABLE CAUSE FINDING AND ORDER

- ☐ The Court **FINDS** that probable cause for further detention **DOES NOT EXIST**. The Court **ORDERS** the law enforcement agency and officer having custody of the defendant to immediately release the defendant from custody.
- ☒ The Court **FINDS** that probable cause for further detention **EXISTS**. The Court reviewed and/or set the defendant's bond as indicated in the BAIL ORDER below and, in clear and unambiguous language: (1) advised the defendant of his rights pursuant to TEX. CODE CRIM. P. Art. 15.17; and (2) provided the defendant with information required by law. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.
- ☐ Probable cause previously determined. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.

☒ **SEE NEXT PAGE FOR BAIL ORDER**

August 14, 2020 11:16 AM

Date and Time

Courtney St. Julian 0212 14 00
Magistrate (Judge or Hearing Officer)

Magistrate Courtney St. Julian (SPN 02129400)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 1 of 2

STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION - PR BOND/BAIL ORDER

PERSONAL BOND / BAIL ORDER

Having found probable cause exists for the further detention of PERALES, MOISES, the Court next determined the conditions of release for the accused to ensure he/she will appear and answer before the proper Court.

PART 1: PUBLIC SAFETY ASSESSMENT

The Court considered the Public Safety Assessment results and also considered the following presumptive personal bond recommendation:

- ☐ Personal Bond Recommended
☐ Personal Bond **NOT** Recommended
☒ Personal Bond Recommendation referred to Magistrate
☐ PSA NOT available

PART 2: PERSONAL BOND / BAIL REQUESTS

Presumptive Bail Amount \$888,888.00

A. DISTRICT ATTORNEY PR BOND / BAIL REQUEST

- Personal Bond ☐ Requested ☒ Opposed
☐ No Position
- Bail Request ☐ No DA Bail Request
☐ Higher _____
☒ Lower \$15,000.00
☐ No Bail

B. PUBLIC DEFENDER PR BOND / BAIL REQUEST

- Personal Bond ☒ Requested ☐ Opposed
☐ No Position
- Bail Request ☐ No PD Bail Request
☐ Higher _____
☒ Lower \$3,000.00
☐ No Bail

PART 3: FINANCIAL AFFIDAVIT

Signed and Sworn: ☒ Yes
☐ No

ORDER

After considering the above, the Court (1) advised the defendant of his rights pursuant to TEX.CODE CRIM.P. ART 15.17; (2) set the defendant's conditions of release in clear and unambiguous language; and (3) provided the defendant with information required by law. The Court then ORDERED the following:

Bail is set at: ☐ No Bail ☒ \$15,000.00
☐ Conditions

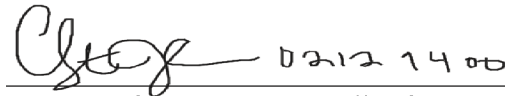
Personal bond is: ☐ Not Approved _____
☒ Approved ☒ Conditions

The reasons for this individual assessment of the appropriate conditions of release were explained to the above-named Defendant.

August 14, 2020 11:16 AM

Date and Time

Magistrate Courtney St.Julian (SPN 02129400)


 Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 2 of 2



CAUSE NO. 168609201010

THE STATE OF TEXAS

V.

PERALES, MOISES

A/K/A : PERALES, MOISES

§
§
§
§
§
§
§

IN THE 338th DISTRICT
COURT
HARRIS COUNTY, TEXAS

COURT DIRECTIVE: REMAND DEFENDANT TO CUSTODY

BY THE ORDER OF THE COURT, the following activity is directed in the above styled and numbered cause:

- ☒ Bond REVOKED. New bond set at \$0.
Defendant remanded to the custody of the sheriff.
- ☐ MOTION TO ADJUDICATE GUILT filed.
Bond set at \$. Defendant remanded to the custody of the sheriff.
- ☐ Defendant found guilty. No bond set. Defendant remanded to the sheriff.
- ☐ Defendant remanded to custody by order of the court.
- ☐ Defendant to serve jail time in lieu of payment until court costs and/or fine is satisfied.
- ☐

Witness my Hand and Seal of Office at Houston, Texas, on 08/17/2020.

MARILYN BURGESS,
District Clerk, Harris County, Texas

Felicia Ayala

By Deputy F AYALA

SHERIFF'S RETURN

Received this Writ on _____ at _____ o'clock AM/PM, and executed the same on _____ by placing the above named defendant in the Harris County Jail.

Sheriff, Harris County Texas

By _____, HCSO Deputy

Exhibit J

Case Filings in the case, *State of Texas v. Joe Anthony Ruiz*
Case no. 1686498 in the 338th District Court of Harris County, Texas

including

- the felony complaint
- the statutory warnings by magistrate - probable cause for further detention – PR bond/bail order
- the court directive, revoking the defendant's bond, remanding them to the custody of the sheriff, and setting the new bond at \$0.

THE STATE OF TEXAS
VS.
JOE ANTHONY RUIZ
611 DORCHESTER ST
HOUSTON, TX 77022

SPN: 02959798
DOB: W M 06/09/1999
DATE PREPARED: 8/17/2020

D.A. LOG NUMBER: 2664636
CJIS TRACKING NO.: 9268144697A001
BY: AA DA NO: 1892669
AGENCY:HPD
O/R NO: 108309420
ARREST DATE: 08/17/2020

NCIC CODE: 1399 03

RELATED CASES:

FELONY CHARGE: Assault of Family Member Second Offender and Impeding Breathing

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

1686498
338

COURT ORDERED BAIL: REFERRED TO
(15.17)
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **JOE ANTHONY RUIZ**, hereafter styled the Defendant, heretofore on or about **August 17, 2020**, did then and there unlawfully, intentionally and knowingly cause bodily injury to Denise Silva, hereafter styled the Complainant, a person with whom the Defendant had a dating relationship, by impeding the normal breathing or circulation of the blood of the Complainant by applying pressure to the Complainant's throat and applying pressure to the Complainant's neck.

It is further presented that, before the commission alleged above, the Defendant, on April 8, 2019, in the 228th District Court of Harris County, Texas, in Cause Number 1601846, was convicted of Family Assault, which was committed against a person with whom the Defendant had a dating relationship.

FILED
Marilyn Burgess
District Clerk

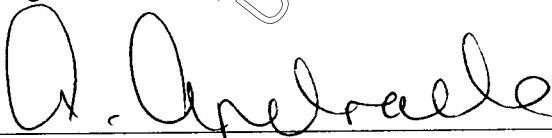
AUG 17 2020

Time: 10:30
Harris County, Texas
By Bm
Deputy

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on August 17, 2020

Duly attested by me on August 17, 2020





AFFIANT

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS
Bar No. 24058294

COMPLAINT

CAUSE NO. 168649801010SPN: 02959798DATE/TIME OF ARREST: 8/17/2020 01:46 AM

THE STATE OF TEXAS

v.

RUIZ, JOE ANTHONYDOB: June 9, 1999§ IN THE 338th DISTRICT COURT

§

§ HARRIS COUNTY, TEXAS**STATUTORY WARNINGS BY MAGISTRATE - PROBABLE CAUSE FOR FURTHER DETENTION – PR BOND/BAIL ORDER**

On this date and time the above-named defendant personally appeared before me, the undersigned Texas magistrate. The defendant appeared ☒ **in person** ☐ **by video teleconference** and I admonished the defendant as follows:

You are accused of 2ND DEGREE FELONY, namely, ASSLT INT/RCK/IMP/BRTH/CIRC/PRECONV.

- You have the right to hire an attorney to represent you.
- You have the right to remain silent.
- You have the right to have an attorney present prior to and during any interview with peace officers or attorneys representing the state.
- You have the right to stop any interview at any time.
- You have the right to an examining trial in a felony offense.
- You are not required to make a statement and any statement you make can be used against you.
- You have the right to request the appointment of counsel if you cannot afford counsel.

If you consent, I can appoint the Public Defender to represent you and describe evidence on your behalf in this bail hearing regardless of whether you are indigent. If you request appointed counsel and are later found to be indigent, another lawyer would be appointed to represent you in any trial or plea on the charge(s) listed above.

Do you consent to allow an assistant public defender to represent you in this bail hearing, knowing that this lawyer will not continue to represent you when this hearing is over? ☐ NO ☒ YES— Pursuant to Joint Administrative Order No. 2017-01, Assistant

Public Defender Arline, Tanesha

(print name) represented the Defendant in this bail hearing.

Do you request the appointment of counsel to represent you in the county or district court if you are determined to be indigent?

☐ NO ☒ YES— The Court **ORDERS** Pretrial Services to help the defendant, if still in custody, prepare the request and any supporting paperwork, and then forward the request to the judge of the court in which the case is pending within 24 hours.

CONSULAR NOTIFICATION: If you are a foreign national, you may be entitled to have us notify your country's consular representative here in the United States. If your country requires notification, we will notify it as soon as possible.

The accused is a: ☒ United States citizen ☐ foreign national of (country).

☐ The accused requests notification of consular officials.

☐ **MANDATORY NOTIFICATION:** The clerk shall immediately alert the above country's consulate of this arrest.

If you are a foreign national, please provide the following information:

Name (father's last / mother's last / first)

Date of Birth

Place of Birth

Passport Number

Date Issued

Place Issued

PROBABLE CAUSE FINDING AND ORDER

- ☐ The Court **FINDS** that probable cause for further detention **DOES NOT EXIST**. The Court **ORDERS** the law enforcement agency and officer having custody of the defendant to immediately release the defendant from custody.
- ☒ The Court **FINDS** that probable cause for further detention **EXISTS**. The Court reviewed and/or set the defendant's bond as indicated in the BAIL ORDER below and, in clear and unambiguous language: (1) advised the defendant of his rights pursuant to TEX. CODE CRIM. P. Art. 15.17; and (2) provided the defendant with information required by law. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.
- ☐ Probable cause previously determined. The Court **ORDERS** the defendant committed to the custody of the Sheriff of Harris County, Texas, until he posts the required bond or until further order of the Court.

☒ **SEE NEXT PAGE FOR BAIL ORDER**

August 17, 2020 15:14 PM

Date and Time

Magistrate jim callan (SPN 53651900)

Magistrate (Judge or Hearing Officer)

(Rev. July 24, 2018)

Interpreter (if applicable)

Page 1 of 2

Page 2 of 2



CAUSE NO. 168649801010

THE STATE OF TEXAS

V.

RUIZ, JOE ANTHONY

A/K/A :

§
§
§
§
§
§
§

IN THE 338th DISTRICT
COURT
HARRIS COUNTY, TEXAS

COURT DIRECTIVE: REMAND DEFENDANT TO CUSTODY

BY THE ORDER OF THE COURT, the following activity is directed in the above styled and numbered cause:

- ☒ Bond REVOKED. New bond set at \$0.
Defendant remanded to the custody of the sheriff.
- ☐ MOTION TO ADJUDICATE GUILT filed.
Bond set at \$. Defendant remanded to the custody of the sheriff.
- ☐ Defendant found guilty. No bond set. Defendant remanded to the sheriff.
- ☐ Defendant remanded to custody by order of the court.
- ☐ Defendant to serve jail time in lieu of payment until court costs and/or fine is satisfied.
- ☐

Witness my Hand and Seal of Office at Houston, Texas, on 08/18/2020.

MARILYN BURGESS,
District Clerk, Harris County, Texas

Felicia Ayala

By Deputy F AYALA

SHERIFF'S RETURN

Received this Writ on _____ at _____ o'clock AM/PM, and executed the same on _____ by placing the above named defendant in the Harris County Jail.

Sheriff, Harris County Texas

By _____, HCSO Deputy

Exhibit K

Letter of Court of Appeals re: decision in case, *Ex parte Joseph Gomez*

SHERRY RADACK
CHIEF JUSTICE

EVELYN KEYES
RUSSELL LLOYD
PETER KELLY
GORDON GOODMAN
SARAH BETH LANDAU
RICHARD HIGHTOWER
JULIE COUNTISS
TERRY ADAMS
JUSTICES



CHRISTOPHER A. PRINE
CLERK OF THE COURT

JANET WILLIAMS
CHIEF STAFF ATTORNEY

PHONE: 713-274-2700

www.txcourts.gov/1stcoa.aspx

Court of Appeals

First District

301 Fannin Street

Houston, Texas 77002-2066

Friday, August 7, 2020

Clinton A. Morgan
Harris County District Attorney Office
Assistant District Attorney
500 Jefferson, Ste. 500
Houston, TX 77002
* DELIVERED VIA E-MAIL *

Thomas Branton Mayr
Law Office of Brent Mayr, P.C.
5300 Memorial Drive, Ste 750
Houston, TX 77007
* DELIVERED VIA E-MAIL *

Daniel C. McCrory
Harris County District Attorney's Office
1201 Franklin
Houston, TX 77002-0000
* DELIVERED VIA E-MAIL *

Sierra Tabone
Mayr Law, P.C.
5300 Memorial Dr Ste 750
Houston, TX 77007-8228
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 01-20-00004-CR
Trial Court Case Number: 1657519

Style: Ex parte Joseph Gomez

Please be advised that on this date the mandate was issued in the above cause. You may obtain a copy of the Court's mandate and all related documents by visiting the Court's website at <http://www.txcourts.gov/1stcoa>. Pursuant to TEXAS GOVERNMENT CODE, Sec. 51.204(b), all exhibits on file with the court, if any, will be destroyed three years from this date. As required by the TEXAS GOVERNMENT CODE, Sec. 51.204(d)(e), we are also notifying the trial court clerk that we will destroy all records filed in respect to this case with the exception of indexes, original opinions, minutes and general court dockets, no earlier than six (6) years from the date of the mandate in all civil cases, twenty-five (25) years in criminal cases with a sentence of twenty (20) years or less.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher A. Prine".

Christopher A. Prine, Clerk

cc: Judge 338th District Court (DELIVERED VIA E-MAIL)
Harris County District Clerk's Office - Criminal (DELIVERED VIA E-MAIL)

Exhibit L

Application for Writ of Habeas Corpus filed on behalf of Tomas Martinez in *State of Texas v. Tomas Lara Martinez*, Case no. 1685375 in the 338th District Court of Harris County, Texas

Cause No. 1685375

Ex parte	§	IN THE 338th CRIMINAL
	§	
	§	DISTRICT COURT OF
	§	
TOMAS MARTINEZ	§	HARRIS COUNTY, TEXAS

APPLICATION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW TOMAS MARTINEZ, Applicant herein, by and through the undersigned attorney, and makes this Application for Writ of Habeas Corpus requesting that this Court rescind its order of August 10, 2020 revoking the surety bail bonds posted by Applicant under this cause number.

In support thereof, Applicant shows the following:

1. Applicant is illegally confined and restrained of liberty by the Sheriff of Harris County, Texas in the Harris County Jail.
2. On August 8, 2020, officers with the City of Houston Police Department arrested Applicant and charged him by complaint with the felony offenses of Driving While Intoxicated (3d).
3. After officers booked Applicant in te Harris County jail, Applicant appeared before a Harris County Magistrate Judge pursuant to Article 15.17, Texas Code of Criminal Procedure. After finding that probable cause existed for further detention, the Magistrate set bond at \$25,000.00.
4. Immediately thereafter, Applicant's mother, working with a bonding company, arranged to have a surety bond posted the \$25,000.00 bond. Applicant was subsequently released from the Harris County Jail on August 9, 2020 (see Exhibit A).

5. As directed in his conditions of release, Applicant appeared in court on the morning of August 10, 2020 before this Court. Applicant's intention was to ask this Court to permit him time to retain undersigned counsel to represent him in this cause.

6. Without any motion from the state and any presentation of any evidence that Applicant violated a condition of his release, the Court sua sponte revoked the \$25,000.00 bond that Applicant's mother posted the day before, set the bond at \$0.00 and seized Applicant in court on August 10, 2020. (See Exhibit B.)

7. On August 13, 2020 the undersigned counsel appeared in court at about 10:45am on behalf of the Applicant in order to secure his release through objection to the bond revocation and a request for the \$25,000 bond to be reinstated. The publicly displayed time for the start of docket in the lobby of the courthouse was 10:30am. Applicant's counsel notified the court clerk of the cause number and why he was present to address the Court.

8. The Court tended to other attorneys for a few minutes while counsel for Applicant waited in court in plain view of the Zoom camera. Just before counsel was next to approach the Court (who was present virtually from a remote location through Zoom), the Court announced she had to "go" and left the Zoom screen without stating a reason. Counsel was denied the opportunity to proffer a motion or objection.

9. The coordinator of the court (also only present virtually through Zoom) indicated to counsel that the judge would not be available to approach again until Monday August 17, 2020.

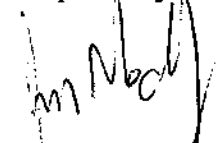
10. This Court's action revoking the surety bail bonds posted by Applicant was contrary to law and violated Applicant's right to be free from unreasonable seizure under the United States and Texas Constitutions and to not be deprived of liberty without due process of law under the 14th Amendment of the U.S. Constitution. Revocation of a bond without an evidentiary hearing

violates Rule of Evidence 101e(3)(C). Further, the revocation of the bond violated Article 17.09, Texas Code of Criminal Procedure.

11. Similarly illegal conduct by this Court has been addressed in Ex Parte Joseph Gomez NO. 01-20-00004-CR, in which the 338th District Court was found to have abused its discretion in sua sponte revoking a defendant's surety bond without good cause, and the Court is subject to immediate mandate by the First District Court of Appeals dated three days prior to this illegal action. (see Exhibit C, Gomez Mandate).

WHEREFORE, PREMISES CONSIDERED, Applicant prays that the Court grant and issue a Writ of Habeas Corpus to the Sheriff of Harris County, Texas, directing and commanding production of Applicant before this court instanter, or at such time and place to be designated by this Court, then and there to show cause, if any there be, why Applicant should not be discharged from such illegal confinement. Applicant further prays that this Court rescind its order of August 10, 2020 revoking the bond posted by Applicant under this cause.

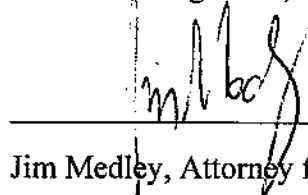
Respectfully Submitted,



Jim Medley
SBN: 24025531
office@jimmedley.com

CERTIFICATE OF SERVICE

I, the undersigned attorney, certify that a true and accurate copy of the above Writ of Habeas Corpus was forwarded to counsel for the State by email to KUYKENDALL_ANN@DAO.HCTX.NET on August 14, 2020.

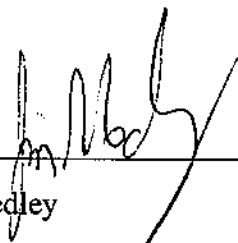


Jim Medley, Attorney for Defendant

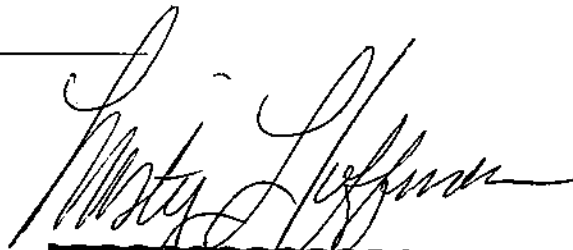
VERIFICATION

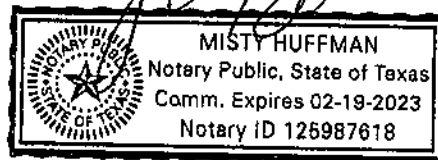
I, Jim Medley am attorney for the Defendant in this cause, and I swear under penalty of perjury that the facts stated herein are from personal knowledge or from public records obtained from the Harris County District Clerk records,

August 14, 2020



Jim Medley





8/14/2020
Expire : 2/19/23

EXHIBIT

A

BAIL BOND

CASE NO. 1685375

COURT SETTING:

DATE

8/10/20 Tme

TIME

930 AM



CHARGE DWI THIRD

SPN 00703484

Known All Men By These Presents:

That we, MARTINEZ, TOMAS LARRY

, or principal, and the

undersigned

ALLEGHENY CASUALTY CO. (AGENT LEOPOLDO P. BENITEZ)

as sureties, are held and firmly bound unto the STATE OF TEXAS, in the penal sum of

TWENTY FIVE THOUSAND(\$ 25,000.00)

Dollars and, in addition thereto, we are bound for the payment of all fees and expenses that may be incurred by any peace officer in re-arresting the said principal in the event any of the hereinafter stated conditions of this bond are violated for the payment of which sum or sums well and truly to be made, we do bind ourselves, and each of us, our heirs, executors and administrators, jointly and severally.

THE CONDITION OF THIS BOND IS THAT THE DEFENDANT HAS BEEN CHARGE WITH A FELONY

(Felony-Misdemeanor)

offense and to secure his release from custody is entering into this obligation binding him to appear before D.C. #3381201 FRANKLIN ST. HOUSTON, TX 77002

County of Harris County, Texas.

NOW THEREFORE, IF THE SAID PRINCIPAL SHALL WELL AND TRULY MAKE HIS PERSONAL APPEARANCE BEFORE SAID COURT INSTANTER AS well as before any other court to which the same may be transferred and for any an all subsequent proceedings that may be had relative to said charge in the course of criminal actions based on said charge, and there remain from day to day and term to term of said courts, until discharged by due course of law, then and there to answer said accusation against him, this obligation shall become void, otherwise to remain in full force and effect.

Taken and approved this 9

day of AUGUST, 20 20by [Signature], DeputyALLEGHENY CASUALTY CO.SIGNED AND DATED AUGUST 9, 2020

• MARTINEZ TOMAS LARRY
 • 7016 WAR CRESS
 • HOUSTON TX 77012

LEOPOLDO P. BENITEZ
1601 CONGRESS ST.

Surety

HOUSTON, TX 77002 (713) 223-9900
 (City and State) (Phone)

Lic.# 74552

Empl. _____

THE DEFENDANT SHALL NOT HAVE ANY
 CONTACT WITH THE PROSECUTION /S/,
 WITNESS /S/, THE COMPLAINANT /S/, OR
 THE ALLEGED VICTIM /S/.

RACE _____ SEX _____ DOB _____ HT. _____ WT. _____
 HAIR _____ EYES _____ DL# _____ STATE _____

Jail Location _____

Citizen Status: _____

Holds: NA1157 X MR

ICE: A# _____

SB COST RECEIPT #

20680

OATH OF SURETIES
 THE STATE OF TEXAS
 COUNTY OF HARRIS

I,

BY ALLEGHENY CASUALTY CO.

do swear that we are worth in our own right, at least double the amount of the sum for which we are bound, exclusive of all property exempted by law from execution, and of debts or other encumbrances, that we are residents of the State of Texas and I have property in the State of Texas liable to execution worth the sum for which I am bound.

HARRIS COUNTY, TX.

**ASSIGNMENT OF AUTHORITY
GOOD FOR 24 HOURS BOND MUST
BE ATTACHED TO BE VALID**

DATE: 8/9/2020 TIME: _____LIABILITY AMOUNT \$ 25,000I HEREBY AUTHORIZE Rodriguez, Maril

TO ACT IN MY BEHALF TO PRESENT THIS BAIL BOND (S)

TEXAS DRIVERS LIC # 16289306BOND NUMBER (S) 2439332DEFENDANT'S NAME Martinez, Tomas LarryCASE NUMBER (S) 1685375

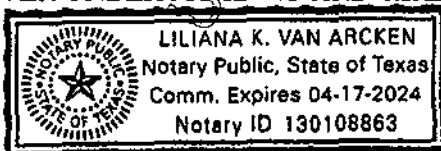
FROM HARRIS COUNTY/CITY OF HOUSTON, OR _____ JAIL.
THE UNDERSIGNED AGENT SPECIFICALLY AGREES TO HOLD HARMLESS ALL JUDGES, LAW ENFORCEMENT
OFFICIALS AND THEIR AGENTS FROM ANY LIABILITY THAT MAY ARRIVE IN CONNECTION WITH THE EXECUTION
OR USE OF THIS ASSIGNMENT OF
AUTHORITY FORM ON THE DESIGNATED BONDS.

AGENT: [Signature]

THE STATE OF TEXAS
COUNTY OF HARRIS

[Signature]
SURETY: LEOPOLDO P. BENITEZ
LICENSE NO. #74552

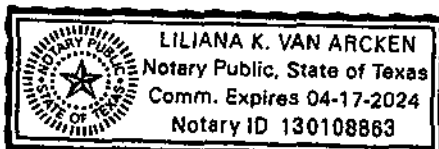
BEFORE ME THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED Rodriguez, Maril (AGENT) KNOWN TO ME TO BE THE PERSON WHOSE NAME IS
SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE
EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS 9 DAY August 2020

[Signature]
NOTARY PUBLIC: STATE OF TEXAS
MY COMMISSION EXPIRES _____

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED
LEOPOLDO P. BENITEZ (SURETY) KNOWN TO ME TO BE THE PERSON WHOSE NAME IS
SUBSCRIBED TO PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS 9 DAY August 2020

[Signature]
NOTARY PUBLIC: STATE OF TEXAS
MY COMMISSION EXPIRES _____

VERIFY FIRST - THIS DOCUMENT IS PRINTED IN RED & BLACK INKS.

Only the original Power of Attorney
will bind this Surety.**POWER OF ATTORNEY**
ALLEGHENY CASUALTY COMPANY
P.O. Box 9810, CHATTANOOGA, TN 37402-9810
(800) 933-2245 INFO@ALIASURETY.COM**POWER**
NUMBER AS30K-148235**THIS POWER VOID IF NOT USED BY: December 31, 2020****POWER AMOUNT \$ 30,000**

KNOW ALL MEN BY THESE PRESENTS, that ALLEGHENY CASUALTY COMPANY, a corporation duly organized and existing under the laws of the State of New Jersey, has constituted and appointed, and does hereby constitute and appoint, its true and lawful Attorney-in-Fact, with full power and authority to sign the company's name and affix its corporate seal to, and deliver on its behalf as surety, any and all obligations as herein provided, and the execution of such obligations in pursuance of these presents shall be as binding upon the company as fully and to all intents and purposes as if done by the regularly elected officers of said company at its home office in their own proper person; and the said company hereby ratifies and confirms all and whatsoever its said Attorney-in-Fact may lawfully do and perform in the premises by virtue of these presents.

THIS POWER OF ATTORNEY IS VOID IF ALTERED OR ERASED, THE OBLIGATION OF THE COMPANY SHALL NOT EXCEED THE SUM OF**THIRTY THOUSAND*********AND MAY BE EXECUTED FOR RECOGNIZANCE ON CRIMINAL BAIL BONDS ONLY.**

Authority of such Attorney-in-Fact is limited to the execution of appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearances. A separate Power of Attorney must be attached to each bond executed. Powers of Attorney must not be returned to Attorney-in-Fact, but should remain a permanent part of the court records.

Bond Amt \$ 25,000.00 Date Executed 08/9/2020Defendant MARTINEZ, TOMAS LARRY DOB Case # 1685375 Appearance Date Offense DWI THIRDCourt County HARRIS Total Premium Charged Court City HOUSTON Court State TX Div/Dept D.C. # 338If rewrite, give orig. power # ☐ Increase ☐ DecreaseExecuting Agent LEOPOLDO P. BENTEZ License Number 74552Form# ACC.0100 (01/19) **NOT VALID FOR IMMIGRATION****ORIGINAL****NOTICE: Stacking of Powers is strictly prohibited. No more than one power from this Surety may be used to post any one bail amount.**

IN WITNESS WHEREOF, said ALLEGHENY CASUALTY COMPANY, by virtue of authority conferred by its Board of Directors, has caused these presents to be sealed with its corporate seal, corporate seal, signed by its Vice Presidents, this 5th day of November, 2018.

Robert Kenrick, Vice President

James D. Portman, Vice President



1203195795

EXHIBIT B



CAUSE NO. 168537501010

THE STATE OF TEXAS

v.

MARTINEZ, TOMAS LARRY

A/K/A : MARTINEZ, TOMAS LARRY AKA
ORTIZ, RAMON GARZA

§
§
§
§
§
§
§

IN THE 338th DISTRICT
COURT
HARRIS COUNTY, TEXAS

COURT DIRECTIVE: REMAND DEFENDANT TO CUSTODY

BY THE ORDER OF THE COURT, the following activity is directed in the above styled and numbered cause:

- ☒ Bond REVOKED. New bond set at \$0.
Defendant remanded to the custody of the sheriff.
- ☐ MOTION TO ADJUDICATE GUILT filed.
Bond set at \$. Defendant remanded to the custody of the sheriff.
- ☐ Defendant found guilty. No bond set. Defendant remanded to the sheriff.
- ☐ Defendant remanded to custody by order of the court.
- ☐ Defendant to serve jail time in lieu of payment until court costs and/or fine is satisfied.
- ☐

Witness my Hand and Seal of Office at Houston, Texas, on 08/10/2020.

MARILYN BURGESS,
District Clerk, Harris County, Texas

By Deputy A GUZMAN DELGADO

SHERIFF'S RETURN

Received this Write on _____ at _____ o'clock AM/PM, and executed the same on _____ by placing the above named defendant in the Harris County Jail.

Sheriff, Harris County Texas

By _____, HCSO Deputy

EXHIBIT C



MANDATE

**Court of Appeals
First District of Texas**

NO. 01-20-00004-CR

EX PARTE JOSEPH GOMEZ, Appellant

Appeal from the 338th District Court of Harris County. (Tr. Ct. No. 1657519).

TO THE 338TH DISTRICT COURT OF HARRIS COUNTY, GREETINGS:

Before this Court, on the 7th day of August 2020, the case upon appeal to revise or to reverse your judgment was determined. This Court made its order in these words:

This case is an appeal from the order signed by the trial court on December 10, 2019. After submitting the case on the appellate record, the Court holds that the appellant has shown that the trial court abused its discretion in entering this order. Accordingly, the Court reverses the trial court's order denying Gomez's application for a pretrial writ of habeas corpus, renders judgment granting the writ, and reinstates Gomez's prior bail bonds.

The Court orders that this decision be certified below for observance.

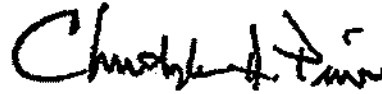
Judgment rendered August 7, 2020.

Panel consists of Justices Keyes, Kelly, and Landau.

WHEREFORE, WE COMMAND YOU to observe the order of our said Court in this behalf and in all things to have it duly recognized, obeyed, and executed.

August 7, 2020

Date



CHRISTOPHER A. PRINE
CLERK OF THE COURT

